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Police Administration



A Critical Study of Police Organisations
in the United States and Abroad

Penology

By

Leonhard Felix Fuld, LL.M., Ph.D.

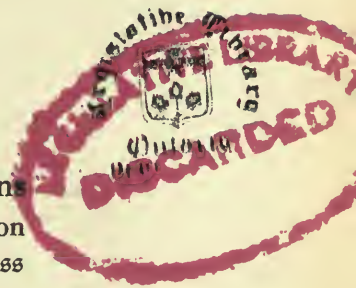
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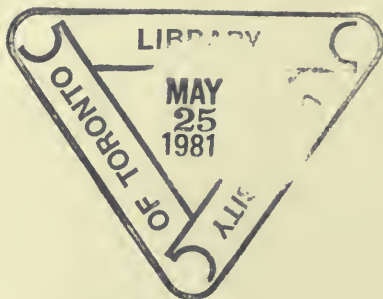
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BY

LEONHARD FELIX FULD

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To
MY PARENTS



PREFACE

"The New York police are like balls upon a pool table; they are knocked and whacked against one another, followed and drawn, whirled and twisted, pocketed, jumped and spotted, rolled and racked and counted, first one way and then another, framed and 'busted' and broke at the will and caprice of those who are pleased to play the game for glory or gain, for place or power, for policy or for purity upon this the greatest civic stage the world has ever known."

In these words Lieutenant Enright of the New York Police Force has expressed the position of the police at the present day in the greatest city of the United States. His words describe as well the position of the police in almost every large city in this country. The police administration of our cities is constantly being criticised; not all of this criticism is malevolent, but much of it is engendered by motives other than that of securing a thoroughly efficient administration of the police department. Most of the policemen and superior officers of the police departments in our cities are self-respecting, honest, industrious, and efficient members of the community; the number of disreputable or dishonest police officers is very much smaller than the critics of our police departments would have us believe.

On the other hand it cannot be denied that the police administration of nearly all our American cities is far from

satisfactory. Police commissioners are never experts, are not always men of personal integrity, and are seldom interested in giving to the municipality an efficient administration of the police department. Statutes are frequently enacted by the legislature of the State which conflict with the views of the citizens of the urban communities, and ordinances are sometimes passed by the aldermen of the city imposing upon the citizens petty restrictions in the conduct of their business which it is almost impossible to enforce. The practical police commissioner encourages the police in their neglect to enforce unpopular laws and ordinances; the unpractical police commissioner endeavors to compel the police to enforce laws obnoxious to a majority of the citizens. In either case some of the weaker members of the force fall and accept money from lawbreakers in consideration of their permitting violations of laws which cannot be enforced by the police. And not only do the police have to contend with inexperienced commissioners and impracticable statutes, but they are also obliged to cope with professional politicians who must of necessity favor a lenient and lax administration of the law and who can vitally affect the happiness, and sometimes the official existence of the police officer.

The efficient administration of the police department of a city under present-day conditions in the United States presents many very difficult problems of administration. The author has endeavored in this monograph to present some of these problems to those who are professionally or theoretically interested in police administration in particular or in municipal administration in general. The study of these problems has been intensely interesting to the author, and it is hoped that this volume may be found to possess some practical value. It is believed that this is the first attempt to present a logical exposition of the principles of police administration.

The author desires to express his indebtedness to the police officials in this country and abroad whose uniform

courtesy has made possible the preparation of this volume; to the Committee of Nine, for the loan of data collected by said committee; to Professor Frank J. Goodnow, Eaton Professor of Municipal Science and Administrative Law at Columbia University in the City of New York, who has read the manuscript and the proof and given the author many valuable suggestions; and to his mother who has kindly assisted him in the revision of the proofs.

LEONHARD FELIX FULD.





CONTENTS

CHAPTER I

PAGE

INTRODUCTION	I
------------------------	---

SECTION I. DEFINITION: Police Function—Police Power—Police Justices—Preventive Function—Census and Identification—Punitive Function—Relation to Military—Relation to Judiciary—Centralized National Police—*Gendarmerie*—Specialized National Police Bureaus—Secret Service—English System—Rural Police—City Police.

SECTION II. HISTORY: Ancient Police Forces—English Police System—Its Demoralization—Its Reform—London Police—Modern Police System—French Police System—Paris Police—United States Police—German Police System—Its Military Character—Other Countries.

CHAPTER II

OFFICERS OF DEPARTMENT	30
----------------------------------	----

SECTION I. HEAD OF DEPARTMENT: Non-professional Head of Department—Board of Police—Partisan Boards—Bi-partisan Boards—Single Commissioner—Professional Head of Department—United States—Germany—Qualifications—Merits—An Anecdote—England and France.

SECTION II. SUBORDINATE OFFICERS: Roundsmen—Intercourse with Patrolmen—Qualifications—Selection—Certification—Sergeants—Duties—Qualifications—Lieutenants—Duties—Captains—Duties—Selection—Merit System—Character—Assistants to the Chief—Inspectors—English System—Promotions—Examinations—Discipline—Subordinate Officers in American Police Force.

CHAPTER III

SELECTION OF PATROLMEN 75

SECTION I. EXAMINATIONS: Appointment without Examination—Not a Success—Civil Service Reform—Kinds of Examination—Mental Examination—Eligibility—Scope—Preparation—Cramming—Conduct of Examination—Corrupt Practices—In the Toilet Room—Physical Examination—Family History—Personal History—Anthropometrical Measurements—Effect of Training—Strength Tests—Medical Examination—How Seventy-five American Cities Choose their Patrolmen.

SECTION II. APPOINTMENT: Examination of Character—McAdoo's System—The Eligible List—Discretion of Appointing Officer—Its Necessity—Its Abuse—Power of Secretary—Payment of Money—Blackmail—The Remedy—Appeals—Their Abuse—Probation—Catechetical Instruction—Physical Training—Instruction on the Street—Tricks of the Trade—Statutes to be Disregarded.

CHAPTER IV

DUTIES OF POLICEMEN 112

SECTION I. OFFICIAL DUTIES: Duty of Knowledge—In America—Transfers—Police Patrol—History—Rural Patrol—Patrol Regulations—Efficiency of Patrol—Signal Service—Patrol Systems—Two-Platoon System—Three-Platoon System—Five-Platoon System—Arrests—With a Warrant—Without a Warrant—Policemen's Powers—Failure to Make Arrests—Blackmail—Bail—Administrative Abuses—Constructive Arrest—In Germany—Control of Criminal Classes—Suspicious Persons—In Europe—Hours of Service of Patrolmen.

SECTION II. PERSONAL DUTIES: Personal Duties—Quasi-Official Duties—Private Life—In Court—Official Position—In Germany—In America—Intellectual Inferiority—Relation to Criminals—Need of Better Education.

Contents

xi

PAGE

CHAPTER V

SPECIAL DUTIES 154

SECTION I. SPECIAL FUNCTIONS: Special Equipment—Mounted Police—Qualifications and Duties—Harbor Police—Doormen—Matrons—Selection—Physical Examination—Duties—Surgeons—Official Duties—Sick Members of Force—Applicants for Appointment—Periodical Examinations—Compulsory Retirement—Its Dangers—Detectives—Method of Operation—Qualifications—Organization—Central Office Force—Central Aid to Local Police—In United States—Selection—Tenure—Unsatisfactory Character—Remedy—London Detectives—Duties—Protection of Private Rights—Method of Operation—Periodical Physical Examinations in American Cities—Detective Forces of American Cities.

SECTION II. POLICE DETAILS: Classification—A Bad System—Political Influence—Police Details—Personal Aides—Detective Work—Demoralizing Duties—Excise and Gambling—Public Details—Similar Postal Abuse—A Suggested Remedy—Private Details—Temporary Details—Labor Disputes—Probation Officers—Qualifications—Duties—Percentage of American Police Forces on Patrol Duty.

SECTION III. PUBLIC HEALTH AND SAFETY: Lack of Centralization—Protection against Fire—Inspection Force—Protection of Public Health—Duties—Building Regulations—Corruption—Tenement Conditions—Tenement House Department—Broad Discretion—French Law—Limitations—Supplementary Legislation—German Law—Administrative Control—English Law—Consolidated Public Health Act—American Law—Due Process of Law—Abatement of Nuisances.

SECTION IV. PRIVATE POLICEMEN: Special Policemen—Appointment—Powers—Their Abuse—Railway Policemen—Powers—Hoodlums and Pickpockets—Labor Disputes—Private Policemen—Their Value—Private Detectives—State Regulation—Examples of Efficient Service.

CHAPTER VI

DISCIPLINE 242

SECTION I. POLICE TRIALS: Maintenance of Discipline—Courage and Justice—Nature of a Public Office—Power of Removal—Charges—Neglect of Duty—Failure to Pay Debts—Conduct Unbecoming an Officer—Trials—Formalities—Professional Counsel—Procedure in the Postal Service—Subject to Judicial Reivew—Trial Officer—Professional Experience—Duties—Difficulties—Courts-martial—Power of the Mayor—Other Disciplinary Authorities—Punishments—Severe Penalties.

SECTION II. APPEALS: The Administrative Appeal—In the Police Department—The Judicial Appeal—The Writ of *Certiorari*—A Judicial Act—Province of the Writ—Questions of Law—Questions of Fact—Control of Administrative Discretion—Removals for Cause—Summary of the Law—Section 2140 in New York—The Ideal System of Discipline—The Proper Function of the Appeal.

SECTION III. PHYSICAL DISABILITY: Health of Policemen—Police Pensions—Service Pensions—Sources of Pension Money—Liquor Tax and Fines—Contributions—Entertainments—Compulsory Retirement—Periodical Physical Examinations—Employment for Veteran Officers—Police Removals in United States.

CHAPTER VII

EQUIPMENT AND RECORDS 309

SECTION I. EQUIPMENT: The Uniform—Utility and Display—Purchase and Care—Officers with Special Duties—Weapons—The Baton—Its Proper Use—The Revolver—The Whistle—Summoning Police Assistance—Signal System—Miscellaneous Equipment.

SECTION II. RECORDS: Police Records—The Police Blotter—Report Cards—The Morning Return—Miscellaneous Records—Narrative Records—Tabular Records—Central Office Records—Reports—Patrolmen's Note-Books—Captain's Reports—Chain of Responsibility.

SECTION III. CRIMINAL IDENTIFICATION: Finger Prints— The Taking of Finger Prints—Ridges and Creases— Classification of Finger Prints—Primary Classification— Secondary Classification—Criminal Photography—Crim- inal's Right of Privacy—Anthropometrical Measure- ments—Foot and Cubit—Ear and Stature—Eyes—Scars and Marks—Merits of the Various Systems—Advantages of Finger-Print System—Conclusion.	369
---	-----

CHAPTER VIII

CONTROL OF LEISURE	369
------------------------------	-----

SECTION I. PROSTITUTION: Unsatisfactory Character of American Police—Police Corruption—Vice and Crime— Cause of Police Corruption—The Control of Leisure— Masculine Vice—Feminine Vice—Physical Effects of Prostitution—Venereal Diseases—Moral Effects of Pros- titution—Regulation of Vice—Medieval Regulation— Modern Regulation—Regulation in Europe—Sanitary Control— <i>Laissez-faire</i> Doctrine—Opposition to Regula- tion—Ineffectiveness of Regulation—Police Control in America—The American Law—The Brothel—Segrega- tion—Other Statutory Regulations—Sanitary Control— Extra-legal License—Police Blackmail—The True Rem- edy—Secret Manifestations—Special Morals Police— Police Control of Social Evil in America.	416
---	-----

SECTION II. GAMBLING AND THE LIQUOR TRAFFIC: Gambling—Professional Gambling—Repression—Sol- ution of the Problem—Liquor Problem—Sunday Closing —Remedy.	416
--	-----

CHAPTER IX

POLICE PROBLEMS	416
---------------------------	-----

SECTION I. STATE CONSTABULARY: Unsatisfactory Con- dition of Police—Proposed State Police Department— Supervision of City Police—Constitutional Questions— In New York—Summary.	416
--	-----

SECTION II. SELECTION OF OFFICERS: Without Exami- nation—Defects of Examination—Rating of Penalties— Rating of Rewards—A Suggested Pass Examination— Efficiency Records—Assisting Candidates for Promotion —Discussion of Police Problems—Selection of Non-	416
---	-----

professional Head of Department—Need of Expert Knowledge—Lengthening of Term—Police Promotions—Appointment and Removal of Police Chiefs—Title, Term, and Salary of Police Chiefs.

SECTION III. SELECTION OF POLICEMEN: Civil Service Examinations—False Statements on Application Blanks—Leakage of Examination Questions—Personation of Candidates—Exercise of Discretion in Appointments—Serves no Useful Purpose.

SECTION IV. EFFICIENT PATROLLING: Unsatisfactory Conditions in American Cities—Attempts at Improvement—"Shoo-flies"—Central Office Roundsmen—Police Signal System—Objections Answered—Other Uses of the Signal System—Summoning Police Assistance—Patrol Service in American Cities.

CHAPTER X

EXAMINATIONS IN NEW YORK 465

SECTION I. EXAMINATION FOR PATROLMAN: Application Blank—Age—Full Name—Citizenship—Date of Birth—Residence—Education—Police Record—Use of Intoxicating Liquors—Height and Weight—Previous Service—Military Service—As Patrolman—Other Occupations—Vouchers—Certificates—Relationship—Character—Occupation—Jurat—Fees—Medical Examination—Mouth—Feet—Height and Weight—Corrupt Practices—Heart—Personal History—Preparation—Physical Examination—"Chinning"—Dynamometer Tests—Dumb-bell Test—Agility Test—Measurements—Preparation—Marking Scale—Written Examination—Books Forbidden—Examination Rules—Preliminary Sheet—Subjects—Memory Test—Government—Localities—Arithmetic—Monitors—Computation of Patrolman's Average—Specimen Examination Questions.

SECTION II. EXAMINATION FOR SERGEANT: Medical Examination—Examination of Abdomen—Eyesight—Need of Examinations—Hardships—Rating of Record—Rating Scale—Seniority—Rewards—Penalties—Written Examination—Monitors—Undesirable Applicants—Col-

Contents

XV

PAGE

lege Students—Method of Choice—Examiners—Instructions—Candidate's Identity—Murray System—Explanation—Concealment of Identity—Question Papers—Prevention of Leakage—Distribution of Questions—Corrupt Practices—In Toilet Rooms—Computation of Sergeant's Average—Specimen Examination Questions—Rules and Regulations—Administration—Laws and Ordinances—Report.

SECTION III. EXAMINATION FOR POLICE MATRON:
Examining Board—Personal History Blank—Physical Examination—Medical Examination—Conduct of Examination—Conditions Found—Causes for Rejection—Postponement of Examination—Medical Examination Blank—Written Examination—Examination Questions.

INDEX 545

LIST OF TABLES

TABLE I.	Subordinate Officers in American Police Forces	62
TABLE II.	How Seventy-five American Cities Choose Their Patrolmen	82
TABLE III.	Hours of Service of Patrolmen	122
TABLE IV.	Periodical Physical Examinations in American Cities	170
TABLE V.	Detective Forces of American Cities	176
TABLE VI.	Percentage of American Police Forces on Patrol Duty	196
TABLE VII.	Police Removals in the United States	306
TABLE VIII.	Police Control of Social Evil in America	401
TABLE IX.	Police Promotions in the United States	428
TABLE X.	Appointment and Removal of Police Chiefs	438
TABLE XI.	Title, Term, and Salary of Police Chiefs	442
TABLE XII.	Patrol Service of American Cities.	458
TABLE XIII.	Physical Examination for Patrolman.— Rating Scale	488
TABLE XIV.	Computation of Patrolman's Average	498
TABLE XV.	Scale for Rating Records of Sergeants	510
TABLE XVI.	Explanation of Murray System	521
TABLE XVII.	Computation of Sergeant's Average	527

ILLUSTRATIONS

PAGE

PLATE ONE

MAJOR RICHARD SYLVESTER . . . *Frontispiece*

PLATE TWO

FOREIGN POLICE OFFICERS 150
Russian, Norwegian, Turkish

PLATE THREE

FOREIGN POLICE OFFICERS 300
Spanish, Dutch, Swedish

PLATE FOUR

NEW YORK POLICE OFFICERS 490
Lieut. William H. Ward, Insp. James E. Dillon, Sergt.
Benjamin Mallam

POLICE ADMINISTRATION

CHAPTER I

INTRODUCTION

Salus Populi Suprema Lex Esto

SECTION I. DEFINITION

Police Function—Police Power—Police Justices—Preventive Function—Census and Identification—Punitive Function—Relation to Military—Relation to Judiciary—Centralized National Police—*Gendarmerie*—Specialized National Police Bureaus—Secret Service—English System—Rural Police—City Police.

THE police function to-day is that function of the government which protects its existence against unlawful attack and promotes the welfare of the people by means of restraint and compulsion, with a view to obtaining the greatest good for the greatest number. Since every government must have the power to protect itself, the police function is a sovereign power possessed by every governmental entity. Thus, in the United States, it is exercised concurrently by the national government, the government of the commonwealths and the municipalities. The word *police* is of Greek origin, and in ancient Greece it included the entire public activity of the city-state. With the development of a realm of individual immunity guaranteed by the laws, the sphere of police activity was gradually narrowed, until to-day,

in Germany, it is used to include only the internal governmental administration, exclusive of the military, financial, and judicial functions. In the United States the conception of the police function is similar to that of modern Germany, but with the limitation that in Germany the police interferes more in the everyday affairs of the individual, while in the United States the constitutional limitations upon governmental power narrow the sphere of governmental action.

The police function is so important that it is exercised by each of the three governmental authorities,—the legislative, the judicial, and the administrative.¹ The legislative department of the government exercises the police function in enacting police statutes and ordinances,—certain norms of conduct which the individual must follow. This legislative exercise of the police function is commonly called the “police power.” In the United States, where the constitutional limitations upon the exercise of governmental power are best developed, this police power extends in three directions. It aims first to promote the primary social interests by securing to the individual peace and security from crime, safety and health, public order and comfort, public morality by the regulation of gambling, intoxicating liquors, and vice, and public security by the care of the dependent classes. Secondly, it promotes the economic interests of the individual by protecting him against fraud and combinations of capital, by protecting laborers, by regulating the use of property and the conduct of business affected with a public interest, and by enforcing provisions for compulsory benefits. And finally, the police power protects the rights of individuals to personal, religious, political, and economic equality, the right of the individual to hold his property free from appropriation, injury, and destruction, and the right of the individual to equality of status.² Each of these functions of the

¹ Montesquieu, *De l' Esprit des Lois*, i, 20.

² Freund, *Police Power*.

police power is subject to constitutional limitations upon governmental activity, based principally upon judicial interpretations of the Fourteenth Amendment to the Federal Constitution. In European countries all but the most elementary of these constitutional limitations are either absent or unenforcible, and the government accordingly regulates in a paternal manner subjects which with us are left to private initiative.

The judicial exercise of the police function is in the hands of police justices, whose duty it is to deal summarily with offenders against police regulations. The jurisdiction of these police justices is accordingly criminal, and their principal function is to examine and commit, pending action by the grand jury or prosecuting attorney, those accused of serious crime, and to punish or free after a hearing those charged with minor offenses. In practice, however, the duties of these police justices are much greater. A large proportion of all the civil litigation of the country is upon one pretext or another brought before these justices and determined in the guise of a criminal proceeding. Nearly all of the petty civil disputes of our tenement dwellers are determined by these justices as cases of breach of the peace or assault. While the ordinary rules of law and procedure are followed in these courts, yet, owing to the summary character of the work, it becomes necessary to give these justices a very wide discretion,—a wider discretion than that enjoyed by any other judicial officer. The great majority of the people know no judge except these police justices, and, because of the ignorance and want of familiarity with our institutions displayed by the litigants in these courts, it becomes very easy for an unscrupulous justice to become oppressive, and even corrupt.¹

Having treated in this somewhat summary manner the legislative and the judicial function of the police, we come next to the administrative function of this power, which will

¹ Eaton, *Government of Municipalities*, 436.

form the subject of this monograph. The administrative police has two important functions,—a preventive function and a punitive function. This distinction is clearly made by the French, but not so clearly drawn in Germany, where the police jurisdiction extends to every governmental endeavor for the public welfare, as distinguished from some of the state activities aimed merely at the continued existence of the state. In America also these two functions are seldom differentiated, although logically the duties of the police easily lend themselves to such a classification. Of these two functions of the administrative police the preventive function is certainly the more important, since if evil be prevented and the commission of crime be prevented, there will be no criminals for the punitive arm of the police service to ferret out and apprehend. The preventive police seeks to prevent the happening of evil by maintaining a regular patrol of the streets day and night, by enforcing the city ordinances, most of which aim to prevent accidents and protect the health of the people, and by the regulation of street traffic for the same purpose. These are the means employed to protect the law-abiding citizen; but the police must also prevent the criminal from following his chosen calling, if possible.

With this end in view the German and the French police keep a careful record of each inhabitant, which shows his correct name, occupation, and character. Prompt notice of new arrivals must be given to the police by landlords and hotel-keepers, and a failure to notify the police before leaving the city may make the offender, if a citizen of the country, subject to summary arrest for identification anywhere in the country. The English-speaking peoples have such a great love of liberty that a system of registration of all the inhabitants of the country as is maintained in Germany and France, is impracticable. Yet even in England convicted criminals are obliged to keep the Home Secretary constantly informed of their whereabouts, and behavior after being released from prison. In America, on

the other hand, we believe in giving the released convict an unfettered opportunity to start life anew, even though we know from experience that at least seventy-five out of every one hundred will be back in prison in the course of a few years. Accordingly we have no system for the registration of inhabitants nor even for the registration of ex-convicts. In isolated cases, it is true, police officers may keep unofficial records of the known criminals and prison wardens and police chiefs may even, as a matter of courtesy, inform the chief of police of a city when they receive knowledge that a criminal is bound for that particular city, but such occurrences, though not infrequent, are extra-legal.¹

Closely related to the subject of registration is the subject of the census. Wherever the police keep a register of all the inhabitants, it becomes an easy task for them to compile the census and this work is generally performed by the German and the French police annually. Even in countries in which the police do not maintain a registration system they take the census at stated intervals. Indeed this seems to be one of the most primitive functions of the police, as we find this duty performed by the police officials since time immemorial in China and Arabia. In the United States the important decennial census is taken by the National Government, but the individual States often provide for an intercensal census for state purposes, and the police frequently attend to these enumerations. Another subject closely connected with police registration is the maintenance of a bureau of criminal identification. All countries that maintain a secret police for the purpose of discovering criminals who plot against the continued existence of the government maintain a central bureau of criminal identification as an adjunct of such secret police service. This is true particularly of the countries of continental Europe. But even in countries which do not maintain a secret police service the efficiency of the police adminis-

¹ *Journal American Social Science Assn.*, iii, 97.

tration requires that a system of criminal identification be adopted. England has an excellent central identification bureau connected with the Home Secretary's office. In the United States, on the other hand, the situation is peculiar. Each municipality has its own police force and most of the larger cities maintain criminal identification bureaus, commonly called "Rogues' Galleries." Those bureaus of the National Government which are engaged in criminal or quasi-criminal work also maintain a criminal identification bureau of their own. The Division of the Secret Service of the office of the Secretary of the Treasury, the Division of the Chief Post-office Inspector of the office of the Postmaster-General, and the Bureau of Immigration of the Department of Commerce and Labor, have the best collections. These municipal and federal bureaus are moreover generally open to police officers of other cities as a matter of professional courtesy. The International Association of the Chiefs of Police of America also maintains a criminal identification bureau, supported by the voluntary annual contributions of the police chiefs of the various cities who are members of this association, and the same organization is advocating legislation for the establishment and maintenance of such a bureau by the National Government. Three systems of criminal identification are in use to-day, either separately or concurrently,—photography, anthropometrical measurements, and finger-print records.

If we borrow a metaphor from the domain of medicine and call the preventive function of the police the hygiene of police administration, then we may refer to the punitive function of the administrative police as the therapeutics of police administration. It is the duty of the punitive branch of the police force to ferret out criminals and assist the courts in convicting them. This work is done by detective officers specially selected for their ability to run down criminals, by the regular policeman who happens to arrest a criminal in the line of duty and must then go to court to give his evidence, and by policemen who are specially detailed

to maintain order in the various criminal and civil courts. It has been the experience of the world that the efficiency of the detective force varies inversely as the freedom of the people. Thus in Russia and in France the criminal investigation department is the most efficient; in the United States, least efficient. While causes other than the personal liberty of the individual doubtless contribute to this result, yet it is easily apparent that the most effective detective work requires a constant interference with personal liberty, which is repugnant to American ideas.¹

Historically the police is the child of the military. On the continent of Europe the military garrisons stationed near the large cities were the police forces of the cities. The soldiers of the army at first had exclusive charge of the maintenance of order in the cities; later a detail of soldiers from the garrison formed a special police force, which was assisted only in cases of emergency or serious tumult by the entire garrison. Such a system puts a tremendous power in the hands of the central governmental authorities. In America the police force is quite generally a local city force and the military a State force composed of local units but subject to State control. The local police must cope with all municipal disorders, trivial or great, and the military can be called upon only in cases of emergency and, in most of the commonwealths, only upon the written request of the mayor of the city or the sheriff of the county and the written approval of the governor of the State. Both of these officials have the power to refuse to call out the military, if in the exercise of their official discretion they think it inadvisable to do so, and such an exercise of discretion is neither reviewable by the courts, nor in most cases subject to any interference by the President of the United States. Nor is the dread of the military portrayed by these provisions of our American law purely sentimental. The military not only frequently becomes an agency for oppression, but it is

¹ *Harper's Weekly*, xlvii, 1030.

peculiarly ill-adapted to police work. It either does too little or it does too much. The policeman's baton is known to the law-breaker, and at its approach the rioter generally retreats; the rifle and bayonet, on the other hand, are strange and to a certain extent fascinating, and the rioter seldom believes that they will be used in earnest. A policeman can dash into a mob and arrest the ringleader, whereupon the mob suffering from the loss of a leader will in most cases disperse; a soldier cannot break ranks, and the arrest of a ringleader is rendered more difficult. And finally, if violence must be used, the baton of the policeman merely makes the rioter feel extremely uncomfortable for a few days, which causes him to remain at home and accomplishes the very purpose aimed at; the rifle of the soldier, on the other hand, inflicts a very serious and frequently even a fatal wound, thus causing bitter resentment on the part of the murdered man's relatives and friends, and urging them on to continued defiance of the law. Thus a small riot may by the action of the military often be turned into a bloody rebellion.¹

In countries in which the police are officers of the courts, as in London in the eighteenth century, or in China to-day, and in countries in which the lower courts are a part of the police system, as in Russia, the liberty of the individual is almost completely at the mercy of the police. In China the court does not like to discredit its servant, the policeman, and in Russia it hardly dares to discredit its master. But in modern England and America the police and the judiciary are independent and co-ordinate. Yet, since it is the province of the courts in America to protect the liberty of the individual, which the police in the performance of their duties frequently attack, either accidentally or intentionally, the courts are to this extent superior to the police. An inordinate desire for power is not the only cause of the abuse of the police power; a laudable zeal on the part of the police to do their duty may work as great

¹ *Fraser's Magazine*, lxxvii, 1.

havoc to personal liberty. The occurrence of a series of murders may spur the police on to make an arrest at all hazards, even though the suspect be innocent and, in such a case, the judiciary must step in to protect the individual from an abuse of the police power.¹

In most of the countries of the world the government is strongly centralized. Historically the monarch was the government, and every local officer his servant. Although in many countries constitutional limitations upon the power of the executive have made the monarch merely the chief administrative officer, or even less, yet these constitutional provisions have in the older countries of the world not done much in the way of changing the monarch's position toward the localities. Bearing this in mind, we are not surprised in finding in most European and South American countries, as well as in most of the colonies of European nations, a strong national police system. Where almost every important governmental activity is attended to by agents of the central government, the police function, which is in many respects the most important of all, is naturally controlled by the central authorities. Moreover, the central control of the police was either formerly necessary, or in some cases is necessary even to-day to protect the continued existence of the state against local uprisings. The police force of the central government may either be the sole police force of the country, or it may be supplemented by the work of municipal police officers. The French *gendarmerie* is a police force of the latter kind, and since all the countries of Europe which have a national police have copied the more important administrative features of the French system we shall briefly consider the organization and duties of this body of policemen.

The first organized police force in the world and the direct ancestor of the *gendarmerie* was the *maréchaussée* established in France in 1356, to take cognizance of crimes com-

¹ *Forum*, xxiv, 487.

mitted by deserters from the army. Later its jurisdiction was enlarged to include all crimes committed on the highways and, after being reorganized in 1720, it became the famous *gendarmerie* of France.¹ This body of police is under the control of the French Minister of the Interior and is practically a military force discharging police functions. In Germany, Italy, and most of the other European countries which have a national police force, the force is also under the control of the Minister of the Interior. The *gendarmes* have duties to perform for which they are held accountable by the Minister of War, the Minister of the Interior, the Minister of Justice, the Minister of the Navy, the Minister for the Colonies, and the local authorities. The principal duties of the *gendarmerie* are to maintain order on the public highways and give prompt notice to the central authorities of any serious crimes or accidents coming to their notice. The Minister of War issues to the force orders to arrest deserters from the army and enforce the provisions of the law relating to compulsory military service. The Minister of the Interior issues to the *gendarmerie* the orders which relate purely to the police functions of the force, such as the patrol of rural highways and the maintenance of police lines at pageants in the cities. From the Minister of the Navy the *gendarmerie* receives instructions relative to the arrest of naval deserters; from the Minister for the Colonies, relative to banished convicts; and from the Minister of Justice, relative to the maintenance of order in the courts, the apprehension of accused persons, the summoning of jurors, and the execution of the mandates of the court. The local authorities are forbidden to call upon the *gendarmerie* for assistance, except in cases of extreme emergency, and while the *gendarmerie* is technically under the command of the general of the army in charge of the prefecture, yet the *gendarmerie* is not considered a part of the military garrison and cannot, except

¹ Fairlie, *Municipal Administration*, 128.

in time of war, be employed to discharge functions which are not police functions.¹

The National Government of the United States has only such powers as are granted to it by the Constitution. According to a well-established principle of constitutional interpretation, all powers not expressly granted to the National Government are reserved to the commonwealths and denied to the National Government. Therefore, since the general police power has not been granted to the National Government, no centralized national police force can be established in the United States such as exist in European countries. A number of powers have, however, been granted to the National Government which require incidental police work, and to perform this national police work specialized national police bureaus have been created. The Constitution gives to Congress the power to coin money, to establish post-offices, and to regulate commerce with foreign countries. In exercising these powers the United States Government must detect and punish counterfeiters, post-office robbers, and violators of the immigration laws, and, for this purpose, we have three national police forces,—the Secret Service, the Post-office Inspectors, and the Immigration Inspectors.

The Secret Service of the United States is a division of the office of the Secretary of the Treasury. Originally established during the Civil War as a division of the War Department for the purpose of securing military information from the enemy, it was later discontinued, and in its stead a sum of money was appropriated by Congress to be expended in suppressing counterfeiting. Finally, in 1865 the Secret Service was established as a division of the office of the Secretary of the Treasury, charged by law with the prevention and detection of the counterfeiting of United States bonds and currency. In addition to its duties with regard to counterfeiting, the Secret Service occasionally

¹ Block, *Dictionnaire de l'Administration Française* (4th ed.),

renders assistance to other departments. Whenever a detective is required to discover evidence tending to prove criminal irregularities on the part of a government officer, or a conspiracy by private citizens to defraud the Government; whenever the President of the United States requires a personal guard while traveling, or the War Department in time of war needs a skilled detective to gather some important military information, a requisition is made upon the Secretary of the Treasury for the detail of a Secret Service operative, and the pay of such an operative is charged to the executive department to which he is detailed. There is no special statutory provision regarding the performance of detective work by the Secret Service men for other governmental departments. Such details are necessary, however, because the United States Statutes expressly prohibit the United States from engaging private detectives and because there is no other branch of the government service composed of specialists in the investigation of crime.¹

The Sunday Civil Appropriation Act for the fiscal years 1909 and 1910 contains a provision² which prevents the employment of Secret Service agents in any investigations except those wherein their compensation and expenses can be paid from appropriations other than the various sums set aside in the Sundry Civil Bill. Broadly speaking, it prevents the chief administrative officers from using the skilled agents of this division in the investigation of land frauds, violations of the immigration and customs laws, smuggling of Chinese, thefts from mints, assay offices, subtreasuries, and the bureau of engraving and printing, but does not affect such employment in the investigation of violations of

¹ *New England Magazine* (New Series), xxvi, 752.

² "No part of any money appropriated by this act shall be used in payment of compensation or expenses of any person detailed or transferred from the Secret Service Division of the Treasury Department, or who may at any time during the fiscal year 1909 have been employed by or under said Secret Service Division."

the pure food law, or offenses coming generally under the jurisdiction of the Agricultural Department, War Department, Navy Department, or State Department.

Immigration Inspectors are officers of the Bureau of Immigration of the Department of Commerce and Labor, whose duty it is to detect and prevent violations of the immigration laws. Much of their time is spent in pursuing, arresting, and returning Chinamen, illegally resident in this country. The Post-office Inspectors are attached to the office of the Postmaster-General. They have two functions—an administrative function and a criminal function. As administrative officers it is their duty to inspect the post-offices of the country periodically, make recommendations tending to increase their efficiency, and report irregularities and infractions of the postal regulations. As criminal officers it is their duty to detect and arrest criminals of all kinds, both federal officials and private citizens, who injure the postal service by their crimes. All of these national police officers generally do their own detective work and then, when the criminal has been detected, call for the co-operation of the local police to take him into custody.

The English police system combines in a peculiarly happy manner administrative efficiency with local independence. Everywhere in Great Britain, with the exception of London the policemen are appointed by the Watch Committee of the City Council, are removable by the same local authority, and are supported by the municipality. In this way is secured that self-government which is so dear to the heart of the Englishman and so, too, is removed that dread, of a centrally appointed police force, which an Englishman scents from afar as tyrannical and oppressive. But the police function is properly a State function in which the State has a vital interest, and municipal police administration may or may not be efficient. To obviate this difficulty the police force of every city and town is regularly inspected by officers of the Home Office, a bureau of the central

government. If the local force is found sufficient in numbers, well organized and disciplined, and in all other respects up to the standard set by the central authorities, the general government will pay half of the cost of maintaining the force. This system of granting aid after inspection is a very powerful stimulus for administrative efficiency without in any manner interfering with local self-government, because, if the city prefers to be free from governmental inspection, it is at perfect liberty to manage its police force as it pleases, losing as a penalty for its obstinacy, however, the grant of State aid.¹

Dwellers in the city complain if a policeman does not appear on the scene within sixty seconds of the occurrence of a disturbance; country folk are surprised to see a police officer at any time. The rural police in the United States consists of one or more constables in each town, while the sheriff and his deputies also have certain police duties to perform in the county. The police force is inefficient in time of quiet, and grossly inadequate and incompetent when a serious tumult occurs. No systematic patrol of streets or highways is maintained. Criminals are safe in the country and country crimes often go unpunished. That they are not of more frequent occurrence is due to the ordinary criminal's mental uncertainty as to country topography, his superstitious dread of heavily-shaded grounds, his unfamiliarity with rural household arrangements, and his dread of dogs and of the rural man-servant, who, as well as his master, is usually handy with firearms. Added to this is the comparative worthlessness of the booty he is likely to get. He knows, however, that he has nothing to fear from the police. Yet, police protection is needed as much in rural districts as in urban districts. Owing to the sparser population, the number of crimes in the country, it is true, is smaller than in the cities, but the crimes which are committed in the country are frequently more revolting and atrocious than those of the city. Attacks upon women

¹ Shaw, *Municipal Government in Great Britain*, 67.

are more frequent and more serious in rural districts.¹ In times of serious tumults the deficiency of our system of rural police protection is even more marked. It is the duty of the sheriff to preserve the peace in the county. When rioting occurs, as it now so frequently does in connection with labor troubles, the sheriff swears in an extra lot of men as deputies, and with an unorganized body of followers goes forward to meet the enemy. An attempt is thus made to overcome a body of rioters, many of whom are desperate, with an undisciplined body of men. There is probably no civilized country in the world which has such a grossly inadequate rural police protection as the United States, and the result of this condition of affairs is that the cumbersome and expensive military must be called out after serious damage has been done to person and property in cases where an efficient police force could have restored order quickly with a minimum of loss.²

Police officers in the United States, though recognized by the courts as officers of the commonwealth, are considered by the people as well as in the practical administration of politics and government as municipal officers. Police appointed by and under the control of the central authorities are looked upon by the liberty-loving American as a tyrannical agency. The American municipal police is furthermore fairly efficient in maintaining order in the city. No free English-speaking people has ever had a State constabulary,—a police force appointed and controlled by the central authorities and operating as the sole police force throughout the entire State,—and the establishment of such a State constabulary could be justified only on the ground that American cities have shown an utter incapacity for self-government in the department of police administration.³ The term Metropolitan Police is employed in the United States to designate a police force established by the authori-

¹ *Harper's Weekly*, xlv, 244.

² *Harper's Weekly*, xlv, 382.

³ *Nation*, lxvii, 405.

ties of the State government, not for the entire State, but only for one city,—in other words it is a State police for a city. Generally, the metropolitan force is governed by a commissioner or a board, appointed either by the governor of the State or by the State Legislature. The idea of a central control of metropolitan police was imported from England, where a metropolitan police district was established for London in 1829, both for the purpose of securing unity of police administration throughout a thickly-settled district, which it was not deemed expedient to consolidate for all purposes as well as for the purpose of supplying an efficient administration, where local administration had proved inefficient. The system of a metropolitan police force has been copied at one time or another in a number of American states. The more important motives which have led to the establishment of these metropolitan police forces were either a desire to secure a more effective enforcement of the liquor laws or a desire to gain a partisan advantage.¹

SECTION II. HISTORY

Ancient Police Forces—English Police System—Its Demoralization—Its Reform—London Police—Modern Police System—French Police System—Paris Police—United States Police—German Police System—Its Military Character—Other Countries.

Although police conditions in ancient days were so different from what they are to-day that a careful study of the Greek and Roman police systems would scarcely be of value to us, it might nevertheless not be inappropriate to mention at this point some of their salient characteristics. Since the ancient Greeks enjoyed no constitutional immunity from governmental action, the police power was co-extensive with the entire public activity of the city-state. There was, however, no police force to maintain order in the city; the police duties were attended to by several bodies of magistrates, the most important of whom were the *Asty-*

¹ Sites, *Administration of Liquor Laws*, 83.

nomi, or street supervisors. These magistrates, ten in number, were charged by law with the duty of having the streets swept, securing decency and morality on the streets, and supervising the construction of new buildings. In addition to these executive duties they had the judicial function of deciding all law-suits which involved questions coming within their jurisdiction. Other police duties were looked after by the aqueduct magistrates, the market magistrates, and the corn magistrates,—each consisting of a board of ten magistrates performing the police duties indicated by the titles of their respective offices.¹ But although the Greeks had no police force in any way similar to modern police organizations, the Roman police system was strikingly similar to our own. A body of about seven thousand constables or *vigiles* grouped into precincts and divisions looked after the peace of Rome, just as modern policemen perform their work. These police officers had regular tours of duty and, although it is not certain that a systematic patrol of the streets was maintained, yet complaints of police inefficiency were not more frequent than they are with us to-day. In addition to their police duties the Roman policemen were also the city's firemen, the differentiation of the fire-fighting function being of more modern origin.² During the feudal centuries we find no trace of any organized police systems, although the manorial lords exercised police jurisdiction in connection with their judicial functions. In the medieval free cities this police jurisdiction passed from the lords to the city authorities, but there was no patrol service or organized police force in the modern sense of the word.³

Among a free people most agencies of the government are decentralized, decentralization being a technical term for local home rule. We are, therefore, not at all surprised to find that the English police system was originally decen-

¹ Schömann, *Antiquities of Greece*, 415.

² Lanciani, *Ancient Rome*, 206.

³ Hazlitt, *Venetian Republic*, ii, 516.

tralized. The origin of the English police was the Anglo-Saxon doctrine of mutual suretyship. Under penalty of imprisonment each free-born citizen was compelled to join a company of ten men called a decennary and these decennaries were in turn compelled to form hundreds. Each individual thus became responsible for the forthcoming of his neighbor in the event of any criminal charge being brought against him. If at any time the King's peace was violated, it was the duty of the county where the breach of the peace occurred to find out the hundred to which the offender belonged, the hundred to discover the decennary, and the decennary to produce the criminal or be amerced, and in many instances make good the damage done. In a sparsely settled community where every one knew his neighbor this police system worked admirably, and the heavy penalty imposed upon the members of the decennary in case they could not produce the criminal served as a strong incentive to their ferreting out the wrong-doer.

With the growth of the country and the increase in population this ancient police system proved entirely inadequate. The decennaries and hundreds were broken up, and even before they became disintegrated it was impossible for them to deliver offenders to the courts. Responsible men were gradually relieved from the obligation of the frank pledge, and the disturbances which arose on the occasion of the deposition of King Edward II made necessary the appointment of justices of the peace to replace the police system of mutual suretyship, which had now fallen into decay. An attempt was also made to make criminal penalties more severe, with the result that, since larceny was a felony punishable by death as well as murder, the thief did not hesitate to kill his victim. Such an act made his work easier, his detection more unlikely, and his punishment in no event greater. Almost every offense was a felony, and most felonies were punished with the death penalty. Yet though hundreds were hanged every week,

this did not serve to check crime in the least. Those criminally inclined attended the public executions regularly and looked forward to their own execution as "the crowning event in a busy life." Indeed when larceny was a capital offense, pickpockets plied their trade among the crowd watching the executions. Another method employed to check this era of crime was by offering large rewards for the apprehension of felons. Instead of checking crime, these rewards were a government subsidy for the encouragement of felony. Forty pounds was the reward offered for the conviction of certain offenders, and it was obviously to the advantage of the professional thief-taker not to interfere with a promising young criminal until he should commit a forty-pounds crime. Premature conviction was tantamount to killing the goose that should lay the golden egg, and the common cant phrase of the day when referring to a juvenile offender was "he does not weigh forty pounds yet."¹

When the old Anglo-Saxon police system of mutual suretyship fell into disuse, the police power in England was in the hands of justices of the peace and parish constables, who were in some respects considered rather as servants of the justices than as public officers. In addition the inhabitants of towns were charged with the duty of keeping watch and ward by the Statute of Winchester.²

The jurisdiction of these parish constables was severely local, since they had no authority outside of their own district. Their services, furthermore, were rendered gratuitously, although in a few cases constables were hired. Later the duty of watching was attended to in the towns by ruffians engaged by the citizens to act as their personal substitutes and in the rural districts by paupers and other social derelicts. The first step in the reformation of English police administration came when an honest man with a salary was appointed magistrate of the Bow Street

¹ *Quarterly Review*, xxxvii, 489.

² 3 Edward I, Chap. 4.

Court in London. The improvement which followed was so remarkable that by the Middlesex Justices' Bill in 1792 seven more salaried police magistrates were provided for London. The executive branch of the police force, however, still continued in its primitive inefficiency. Parliamentary committees of inquiry were appointed in 1772, 1793, 1812, 1816, 1817, 1818, and 1822, but they accomplished very little. Popular prejudice and the fear of governmental tyranny opposed the central control or even the central supervision of the police. Under the pressure of circumstances, however, the phenomenal increase in crime at this period gradually forced the government to take some measures to improve the executive police service, particularly in the Metropolis of London. A four-mile foot patrol was established at the beginning of the nineteenth century; a twenty-mile horse patrol followed in 1805. These patrols, which were under the control of the central government, aimed mainly to suppress highway robbery on the roads leading to London and they were successful in their efforts. Lord Sidmouth, in 1821, introduced the first systematic patrol of London streets, but all police patrols were strictly confined to the early hours of the evening. During the daytime no police patrol was deemed necessary, and thieves were left unmolested. At night the need of a police patrol was especially felt because the night-watchmen, being undisciplined and unpaid and following other vocations during the daytime, spent most of the night sleeping.

The modern police force of the Metropolis of London dates from 1828. In that year Mr. Peel, Secretary of State for the Home Department, secured the passage of a statute¹ by which the old parochial organizations for police purposes were abolished and a new constabulary established for the entire district under commissioners appointed by the Crown. This was the first modern urban police force in the world, including a thoroughly organized corps

¹ 10 George IV, Chap. 44.

of policemen subject to strict training and discipline, a systematic day and night patrol of the whole area, which was divided into definite beats for each officer, a force of reserves stationed at police headquarters, and mobilizing arrangements for suppressing serious tumults. Three predominating characteristics differentiate the police force of Peel from all pre-existing police organizations. In the first place the policemen were all professionals. Just as in our day we have seen the professional fireman taking the place of the volunteer, so by Peel's Act the inadequately paid watchman gave way to the paid policeman, who devoted his whole time to his police duties and was forbidden to engage in any other business. The constables and watchmen had no organization or discipline, and no administrative head worthy of that name; the second characteristic of the new police force was that it was uniformed, and disciplined, and under the control of a commissioner. And thirdly, all prior police forces were either civilian like the night-watchmen or military as on the continent of Europe; now, on the other hand, the police force was semi-military. It was sufficiently military to secure effective action and good discipline, while yet not military to such an extent as to become oppressive as in Russia.

Since it was not deemed expedient to provoke unnecessary hostility by attempting to do too much at first, the Act of 1828 did not abolish the police of the City of London, the Thames River police, or the constables of the magistrates. In 1839, however,¹ the Thames River police and the constables of the magistrates were absorbed into the Metropolitan Police system, while in the same year² the City of London reorganized its little police force on the model of the Metropolitan Police force. Yet even at the present day the City of London police is an organization separate and distinct from the Metropolitan Police. The Metropol-

¹ 2 Victoria, Chap. 47.

² 2 Victoria, Chap. 94.

itan Police force of Peel proved to be extremely efficient. In certain districts of London which a squad of police could not with safety have entered to serve a warrant in 1820, a single officer could make an arrest unaided in 1830. The knowledge that a highly disciplined and centralized police force stood ready at all times to protect each individual policeman had a wonderful deterrent effect upon the criminal element.

A novelty in governmental affairs is generally unpopular and, when this innovation is introduced into the system of police administration, it is almost invariably unpopular among English-speaking people, who seem to respect the rights of criminals more than the wrongs of honest men. Accordingly, the new Metropolitan Police in spite of its efficiency was extremely unpopular. So unpopular was it in fact that when a policeman was mortally stabbed in the Cold Bath Fields Meeting Riots of 1833, the coroner's jury brought in a verdict of justifiable homicide, which was promptly set aside as contrary to the facts. The nicknames of "Bobby" and "Peeler," derived from the name of Robert Peel who secured the establishment of the Metropolitan Police, were given to the London policemen at this time when they were so unpopular, and these nicknames have clung to them to the present day. Popular opposition to the police became so pronounced in 1833 that three parliamentary committees were appointed to investigate the police force, the result of which was that the police commissioners received unqualified approbation. By the Municipal Improvement Act of 1834¹ the formation of similarly organized bodies of police was authorized in all corporate towns, such police to be under the control of the mayor and the Watch Committee of the municipal council. In 1839 the formation of county police for the rural districts was authorized,² but since the counties were slow to take advantage of this permissive legislation,

¹ 5 William IV, Chap. 76.

² 2 Victoria, Chap. 93.

the system of county police was made compulsory in 1856,¹ and at the same time a scheme of inspection of all the local police by the central government was organized in connection with subsidies paid by the central government toward the cost of the local police.²

Almost every country has a primary and a secondary police organization. Thus, in England if the city police or the rural constabulary is unable to quell a disturbance, the British army is called upon to restore quiet. In the United States the State Militia, an organized body of volunteer citizen soldiers, is called upon to assist the police in cases of extreme emergency, and in addition, if the militia fails to restore quiet, the Legislature of the State, or, if it is not in session, the governor, can call upon the President of the United States for United States army troops. France, on the other hand, was the first country to have a dual police system, a civil police and a military police,—the *gendarmerie*,—performing police duties of different kinds at the same time. In addition to this dual primary organization it has of course a secondary police organization,—the regular army,—to fall back upon if necessary. Philip of Valois took the first step toward establishing a modern police system in 1327, when he appointed in Paris a number of *commissaires*, royal officers distinct from the judicial system, with power to conduct preliminary examinations in the enforcement of police regulations. This same system of separate police magistrates was extended to other parts of France in 1514, when similar *commissaires* were appointed in each royal *baillage*. The establishment of the *maréchaussée* in 1356 and its reorganization as the *gendarmerie* in 1720, the appointment of a lieutenant of police for Paris in 1667, and the extension of the military urban police patrol service to every town possessing a *parlement* or presidial court two years later, made France in the seventeenth and eighteenth centuries one of the best policed countries

¹ 19 Victoria, Chap. 69.

² *Edinburgh Review*, xcvi, 1.

of the world. In Paris the police which was practically a military force was stationed at strategic points about the city during the daytime, while at night a systematic patrol of the streets in squads was maintained. In the rural districts the principal function of the police was the detection and suppression of attacks upon the government, and for all serious outbreaks in city or country the army was called into action.

Not until 1854 was the Paris civil police reorganized on the model of the London Metropolitan Police. At this time it lost its military character, the number of policemen was increased from four hundred to three thousand and, being placed under the direct control of the central government, a part of the expense of its maintenance was borne by the central government. The police of Paris is under the administrative supervision of a prefect of police, who is an officer of high rank appointed by the central government and whose police duties are analogous to those of the Commissioner of Police of London. The police force of Paris may be divided into two divisions,—the political police and the civil police. The political police of necessity work in the dark. Those who plot against the existence of the State work in secret and the government agents who are pitted against them—whether they be regular police officers or paid spies—must also make as little display as possible. What the government gains in exposing and frustrating a treasonable conspiracy it quickly loses when the people begin to ask themselves: "Why did these men plot against their government?" The civil police organization consists of *commissaires*, inspectors, policemen, and clerks. Paris is divided into twelve *arrondissements* or wards, and forty-eight *quartiers* or precincts. In each *arrondissement* is a brigade of policemen and inspectors and in each *quartier* a *commissaire*.

These *commissaires* are a very efficient police agency peculiar to the French system. Appointed directly by the central administrative authorities and not subject to the

administrative control of the prefect of police, they combine duties somewhat similar to those of the American police magistrate with very important police duties. Complaints are presented to them and examined, arrests are recommended, and those arrested examined and sent to the *juge d'instruction*, the lowest officer in the criminal judiciary system. But their most important service is rendered when one of these *commissaires* prevents the commission of a crime or settles a quarrel without making an arrest,—in other words, when he acts as a peacemaker, respected and obeyed by every one. The prefect of police has the power to make police regulations having the force of law,—the extensive executive ordinance power found mainly in continental Europe, and he has power to issue warrants for the arrest of offenders,—a power reserved in England and America to the courts. Another important administrative characteristic of the Paris police organization is the large central reserve,—a whole brigade being kept at the central office to meet possible emergencies,—and the division of the policemen into specialized squads so seldom found in America. Almost every function of police administration is looked after by a special squad,—vagrants, hacks, prostitutes, bankers, pawnbrokers, street traffic, etc.,—and this specialization of function and division of labor has apparently increased the efficiency of the Paris police.¹

Since the United States were originally colonies of Great Britain, it is natural that early police conditions in America were similar to those in England in the eighteenth and the beginning of the nineteenth centuries. When the American cities were first settled and were very small, the city was generally placed in the care of a single paid night-watchman, whose duty it was to ring a bell at stated intervals, cry out the state of the weather, and notify the constable in case of fire or disorder. A single constable was likewise the chief and only police officer. As the city grew, the number of

¹ *Eclectic Museum*, i, 552.

constables in each ward of the city was increased and these constables were generally elected by the people. The number of night-watchmen was also increased, but the watch, as it was called, was not a permanent body of paid men. Every able-bodied householder was supposed to take his turn, but instead he furnished a substitute, who was frequently not much more than a vagabond. The next step was generally a law authorizing the appointment and payment of a certain number of night-watchmen. Rules and regulations were also promulgated at this time. Frequent serious riots demonstrated to the citizens that a police administration which had no efficient organization, training, or discipline was unsatisfactory.

The result was that in the middle of the nineteenth century most of the American cities organized police forces patterned after the London police. At first considerable difficulty was experienced in compelling the policemen to wear a uniform, it being considered degrading to do so, but after considerable opposition every large American city succeeded in obtaining a semi-military, uniformed, professional police force. The establishment of these modern police forces served also to combine the functions of police and night watching, which were distinct in the early days and which are still distinct in Berlin to-day. The next stage in American police development was the partial centralization of the police administration. Up to this point police administration had been considered a purely municipal affair in America, but in 1857 the police forces of Brooklyn and New York were placed in charge of a centrally appointed police commission. Similar metropolitan police systems were established in Baltimore, St. Louis, Chicago, Detroit, Cleveland, Boston, several other Massachusetts cities, Cincinnati, Washington, Denver, Newport, Kansas City, St. Joseph, Birmingham, Manchester, eleven Indiana cities, and Providence. Dissatisfaction with the inefficiency of the urban police and a desire to gain partisan advantage were the principal motives

leading to the establishment of a metropolitan police force. In New York, Chicago, Detroit, and Cleveland a return has been made to the method of local appointment.¹

The German police system has always been and is still to-day the most military system of urban police administration in the world. Before Germany had any police organization whatever, the army attended to the policing of the cities as well as the policing of the rural districts. Although this was the condition of affairs in all civilized countries before the introduction of modern police organizations, yet the performance of police duty by the military has left a firmer impression upon the modern police in Germany than in any other country. No police force was organized in Germany to relieve the army from performing police service until 1812, and the *gendarmérie* established by Prussia in that year on the general lines of the French organization was supposed to cover the entire state and so could not give very much attention to the cities. In 1830 the Prussian Government authorized the municipal authorities of any city in which no garrison was stationed to establish a local police force, but the need of a police force in cities containing a garrison was not yet felt. The military attended to the policing of the garrisoned towns. Even in the ungarrisoned towns in which a police force was authorized in the first half of the nineteenth century and later in the second half of the same century when local police forces were authorized in all German towns, the police maintained order only in normal times. In times of tumult the German police always has called, and even to-day continues to call, upon the military for assistance.

The organization of the German municipal police also plainly shows that it is a child of the military. The patrolmen must all be trained soldiers, the inferior officers must

¹Costello, *Our Police Protectors*; Folsom, *Our Police*; Savage, *Boston Watch and Police*; Sprogle, *Philadelphia Police*.

be non-commissioned army officers of at least twelve years' standing, and all the other officers of the uniformed force are quite generally former army officers. Only the police commissioner and his assistants need not be soldiers, and even in the case of these men it is provided that they must either have served in the army or prove that they are physically disqualified for service. We should, however, not fall into the error of ascribing the military character of the German police organizations exclusively to the fact that the military continued to be the sole police organization in Germany for so long a time. Although the influence of this fact upon modern German police conditions is important, the compulsory character of the military service in Germany has also influenced German police affairs very materially. Where every able-bodied man must be a soldier, it is only natural that the police force, which must in its very nature be at least quasi-military in organization, is in Germany developed into an almost complete military body.¹

In Turkey, Persia, and China local action in police matters is at a minimum. In Turkey the policemen are members of the regular army, and only in Constantinople is any attempt made to differentiate the policeman from the soldier. In Persia there are policemen only at the capital, Teheran. In China there is no police organization whatever, police matters being attended to by various provincial authorities.² In most of the British colonies the police system is no less completely centralized, although vastly better organized than in the semi-civilized countries first mentioned. India has a state police force but the larger municipalities make contributions towards the support of the police force on duty within the city limits. Similarly the Royal Irish Constabulary is a strongly centralized quasi-military force. In Russia, too, the police is a strongly centralized organization. The central government

¹ Mascher, *Polezeiverwaltung des Preussischen Staates*.

² *Police Chief*, March 30 and April 27, 1907.

appoints a master of police for each city, who determines upon the strength, salaries, disciplinary rules, and appointments. The municipalities, it is true, support both the urban police and the political police, but the central government makes this an obligatory item in the municipal budget. Similarly in Greece the police and the *gendarmerie* are maintained and controlled by the central government.

The countries of western Europe and North America quite generally allow the municipalities to take part in the management of the police. Most of these countries, recognizing the fact that the police function is a state function but a state function in which the municipality is vitally interested, have a dual police system. In France in addition to the local police there is the *gendarmerie*. This military police organization has been copied in Belgium, Netherlands, Austria, Italy, Portugal, Spain, Mexico, and most of the South American countries. In the United States the organization known as the militia, which is called upon only in cases of serious tumult, takes to a certain extent the place of the *gendarmerie* in the dual police system. Even where there is no general system of State police, the central government frequently controls directly the local police of the larger municipalities. London, Paris, Berlin, and Vienna are familiar examples, although it should be borne in mind that Berlin has a local force of night-watchmen in addition to the government police. In Mexico, Rio, Buenos Ayres, and Tokio the local police are similarly under the control of the central authorities, and the same condition of affairs exists also in some cities of the United States.¹

¹ *Municipal Affairs*, ii, 618.

CHAPTER II

OFFICERS OF DEPARTMENT

Non Posse Bene Geri Rempublicam Multorum Imperiis

SECTION I. HEAD OF DEPARTMENT

Non-professional Head of Department—Board of Police—Partisan Boards—Bi-partisan Boards—Single Commissioner—Professional Head of Department—United States—Germany—Qualifications—Merits—An Anecdote—England and France.

THE desire of the people to safeguard the liberty of the individual, which it was feared would be imperiled by a body of professional policemen under the sole control of a professional chief, as well as the desire to secure in the larger cities a man of better character and education than the average police officer, have resulted in the appointment of a non-professional head of department in most of the cities of the United States. That the individual liberty of the citizen has been more carefully safeguarded by a non-professional head of department than by a professional chief of police is undoubted; the professional chief, for example, has little sympathy for the citizen who complains of having been clubbed by an officer. Then, too, the non-professional head of department is certainly better educated than the officers of the uniformed force, but whether he is generally of better character is a question which is open to dispute. Criticisms of corrupt police administration, when carefully analyzed, are directed either to corruption or gross inefficiency on the part of the non-professional head; the professional

officers, it is true, are said to do most of the actual work of blackmail, but however much we may condemn their conduct from the point of view of morality, we must remember that they are soldiers, whose first duty it is to obey, and that the subsistence of their families depends upon their retaining their position on the police force.

The non-professional head of the police department in our American cities is frequently a professional politician. In America we have not yet succeeded in obtaining as great administrative efficiency in municipal government as have the people of England and Germany, and, since the police department offers the greatest opportunity for corruption, it is the department in which administrative inefficiency shows itself most plainly. An efficient administration of the police department invariably arouses resentment among the criminal classes and dissatisfaction among those who, though not professional criminals, desire to be unmolested when violating minor municipal police regulations. In a large city the latter class will frequently turn out of office the political party responsible for a rigid enforcement of the police laws, while the criminal class together with its unconscious supporters, consisting for the most part of ignorant men whose votes can be easily influenced, will restore to power the political party that is willing to execute the laws without harshness. The execution of the laws without harshness means, in our American system, neglecting to enforce some of the laws on the statute books. Which laws shall be enforced and which shall not be enforced, when a law shall be enforced and when not, are matters left to the discretion of the non-professional head of department. When we consider the class of men frequently selected for the position of non-professional head of department in America, we are not at all surprised that this discretion is exercised at the best by favoring citizens of the dominant political party, and at the worst by extorting money and levying blackmail.

Moreover, the non-professional head of department having but a short tenure of office, generally either two or four years, has neither the opportunity nor the desire to learn the technical details of the police business; in other words, he never is and seldom becomes an expert. It should be borne in mind that while this description of the American non-professional head of department is a true description in the United States generally, there are some exceptions, both as to place and as to time. Yet the fact that the people refer with emphasis to the circumstance that Commissioner Blank is an honest man, shows distinctly that an honest head of the police department is something unusual, or at least is not of frequent occurrence. Likewise, it should be remembered that the non-professional head of the police department is neither more inefficient nor more corrupt than the heads of other departments in American cities; the police department only displays any latent administrative inefficiency more clearly, and furnishes a more fertile field for administrative corruption.

The non-professional control over the police force may be exercised either by a single commissioner or by a board of police. The historical development of this control has been from the board system to the single commissioner system in the United States. The advantages of the board system are that it insures carefulness of deliberation, regard for all sides of the case, and an impartial decision,—in other words, it is the ideal organization for a judicial authority. The single commissioner system, on the other hand, is well fitted for the discharge of duties which require energy and rapidity of action and for which it is desirable to have a fixed and well-defined responsibility.¹ No department of the city government requires more rapid, or more energetic, or more responsible action than does the police, and yet in most American cities the board system is still in use. The explanation of this

¹ Goodnow, *Comparative Administrative Law*, ii, 6.

condition is historical. On the continent of Europe the head of the police department is generally a single man, as he logically should be. The people would no more think of placing their police under the control of a board than they would of organizing their army on this plan. The same is true of the Metropolitan Police of London.

The board system of police administration arose in the other cities of England under the Municipal Corporations Act of 1835, by which there was given to a committee of the municipal council, called the watch committee, the non-professional control of the police. The establishment of this committee was due not so much to any conscious belief that the board system was the best system to apply to police administration, as to the fact that a committee was the only system of administration consistent with the general principles of the Municipal Corporations Act, which consolidated all municipal functions in the council. In the United States, the board system of police administration has been followed since the first modern police force was organized in New York in 1853. Its introduction in the United States, however, was probably a historical accident. At the time of the establishment of modern police organizations the board system was believed to be the proper form of municipal government. Nearly all the municipal departments were under the control of boards and so the police department was also placed in charge of a board, without considering whether the board system was particularly appropriate to police administration. The board system thus established in New York was quickly copied all over the country and although the tendency at the present day is to change to the single commissioner system, which is the system which is scientifically and practically correct, yet its development in America has thus far been slow.¹

Efficient police administration is a question of honesty rather than of party politics. In an ideal city the board,

¹ Goodnow, *City Government in the United States*, 228.

if there be a board, should be strictly non-partisan. The prevention of blackmail and corruption, the repression of crime and violence, the safeguarding of life and property, securing honest elections, and rewarding efficient and punishing inefficient police service are not, and cannot properly be made, questions of party difference. In other words, a police force can be wisely and properly administered only upon a non-partisan basis. But, although the members of the board ought not to let partisan considerations influence their action, yet in the practical administration of a city it is necessary, and not altogether undesirable, that all the members of the police board be of the dominant political party,—that is, that it be a partisan board. If the Democratic party succeeds in a city election and a Democratic police board is appointed, the people can hold the Democratic party directly responsible for unsatisfactory police conditions. This is the only justification for a partisan police board. But partisan police boards have proved unsatisfactory in American cities. In spite of the fact that such a board is in thorough sympathy with the dominant political party and such party can be held responsible for its acts, the fact that such partisan boards interfere illegally with the elections by the intimidation of the voters of the opposite party and that they grant immunity to members of their own party, while persecuting petty lawbreakers of a political creed different from their own, has led to their gradual disappearance in America.

The next step in the development of the non-professional head of the police department was the bi-partisan board, than which a more foolish or vicious system was never inaugurated. It modeled the government of the police force somewhat on the lines of the Polish parliament and it was avowedly designed to make it difficult to get effective action. At first these boards contained four members so that it was difficult to get a majority; but lest such a majority should be obtained, it was pro-

vided generally that not more than two members should be of the same political faith. This practically insured a deadlock, if the members voted according to their political opinions, which they frequently did. As a matter of fact, the question of administrative efficiency was not even considered by the legislators who introduced these bi-partisan boards; they were a party device for securing a party monopoly of patronage and spoils and for dividing them between the managers of the great parties conspiring together. Bi-partisan boards would seem grotesquely absurd to us all, were it not for the fact that they are clothed with a glamour of justice by party illusion and ambition. They involve the confession that partisan zeal and activity generally disqualify men for doing justice and being honest, where party interests are concerned.¹

The only plausible defense of the bi-partisan board of police is that it prevents the police board from interfering corruptly with the elections, in a manner calculated to help the dominant political party. Such police interference may take one of two forms,—the intimidation of voters at the polls or the corrupt management of the election machinery. A bi-partisan board is not the proper remedy for either of these evils. Intimidation of voters is increased and not diminished by a bi-partisan board. A partisan board intimidates only the voters of the opposite party while a bi-partisan board intimidates the voters of the two leading parties. Under such a board, it is true, the Democrats cannot intimidate the Republicans while the Democrats enjoy immunity; the Democrats will intimidate the Republicans, and the Republicans, the Democrats. Matters will to a certain extent be equalized, but such equalization will be the result of an increase of the evil, which it is desired to remedy. A non-partisan police board would be the logical cure. As regards the corrupt management of the election machin-

¹ Roosevelt, *American Ideals*, 160. Eaton, *Government of Municipalities*, 416.



ery, the only remedy is the complete divorce of the election machinery from the police department. The administration of the elections should be in the hands of a separate department, and the activity of the police restricted to the maintenance of order at elections as at all other times.

Three great objections to a bi-partisan police board still remain unanswered. Constant differences of opinion among the members of the board impede administrative action; the danger of a deadlock is increased where there is an even number of members on the board; and where there are deadlocks, there is always great danger of dishonest compromises between the various members of the board. Furthermore, the constitutionality of a bi-partisan board has been frequently questioned. Although it is well settled that a law which imposes any qualifications as a condition precedent to a man's eligibility to office is not violative of the general constitutional provision, forbidding the State from depriving a man of life, liberty, or property without due process of law, since a man has no inherent right to be eligible to any office, yet the courts in the United States have quite generally held, either as the result of a direct constitutional provision, or as the result of their interpretation of certain general constitutional provisions, that not only religious, but also political opinions may not be made a test. Thus, a statute providing that a bi-partisan board of four be selected by taking two men from each of two political parties,¹ a statute requiring that the members of a board be selected from the two leading political parties,² a statute disqualifying all Black Republicans from holding a position in the police department,³ a statute requiring that the members of a board be taken in equal numbers from the two political parties represented in the city council,⁴ a statute

¹ Attorney General *vs.* Councilmen of Detroit, 58 Mich., 213.

² City of Evansville *vs.* Blend, 118 Ind., 426.

³ Mayor of Baltimore *vs.* the State ex rel Board of Police, 15 Md., 376.

⁴ People ex rel Le Roy *vs.* Hurlbut, 24 Mich., 44.

providing that no one be eligible for appointment as police commissioner unless a member of the political party having the highest or the next highest representation in the common council,¹—have all been declared unconstitutional by the courts.

Although in rendering these decisions the courts have construed many different constitutional provisions and the decisions have, for the most part, been based upon technical rules of constitutional law, the underlying principle in the minds of the judges has doubtless been that these statutes have imposed qualifications which disqualify a large number of citizens for a reason which in no way increases the efficiency of the government. Accordingly in the case of *Rogers vs. Common Council of Buffalo*,² the court upheld a statute providing that not more than two of a board of three civil service commissioners be selected from the same political party, since such a statute increases the efficiency of, and is almost indispensable to, a civil service board and furthermore does not require that an applicant belong to any particular political party; in other words, it does not set up any positive political qualification. The political qualification set up by it is only negative,—that after two members of the board are of any one political party, the third member cannot be of the same party, but may be of any other party.

To be efficient the police must act quickly and decisively, particularly in times of emergency. The delay which results from the long-continued deliberation or the deadlock of a board of police is demoralizing to the police force in normal times, and extremely dangerous and disastrous in times of tumult. No civilized nation would send an army into a single battle under the command of a board of generals, and yet in many American cities the police force, which is daily engaged in active service, is by a

¹ Rathbone *vs.* Wirth, 150 N. Y., 459.

² 123 N. Y., 173.

historical accident under the command of a board of commissioners. It is true that the professional head of department—the chief or superintendent—is invariably a single man, but the non-professional head, if a board, can and does seriously impair his power and ability to control the uniformed force. New York, by its charter of 1897,¹ discarded the police board and tried the single police commissioner, following the example of the London Metropolitan Police. The experiment was at that time deemed exceedingly dangerous. While it was hoped that a single executive would insure prompt and effective administrative action and allow of individual responsibility, it was feared that since the power of removing the commissioner, vested in the mayor of the city or the governor of the State,² was a slow procedure, seldom resorted to, an unscrupulous commissioner might have a practically unlimited opportunity for corruption and illicit private gain. The last few years of the nineteenth century saw the displacement of the board system of administration by the commissioner system in nearly all the departments of many American cities, and this is certainly the tendency at the present day. On the whole, too, it is a very satisfactory tendency in all the departments of the city government, but most of all in the police department, where the board system was especially unsatisfactory.

The professional head of the police department may be differentiated from the non-professional head of department in that the professional head of department has made the police business his life-work, has risen to the position of chief from the ranks, and holds his office during good behavior, while the non-professional head of the department is appointed for a definite period, usually two or four years, and has generally had no previous experience in police work. The professional head may either be superior to or subordinate to the non-professional

¹ §99.

² New York Charter, §270.

head of the department, or the non-professional head of department may be wanting entirely.¹ In New York City the non-professional head of department is the real head of department, while the professional head is merely a chief executive officer with only such duties and powers as the non-professional head of department may delegate to him. In most of the larger American cities, however, the professional head of department is the true head of department, while the activity of the non-professional officers is confined to the direction of the general policy of the department. In many of the cities of medium size there is no non-professional officer whatever and the entire control of the police force lies in the hands of the professional chief.

The character of the professional chief of police varies in different cities. To begin with, it must be said that there are in the United States many honest chiefs of police, men who are uncompromising in their dealings with criminals. They soon become well known among criminals, who not only fear them but also respect them for their consistency. But there are also some chiefs of the compromising class, particularly in the smaller cities, although they are not found there exclusively. The payment of a money bribe by a criminal to one of these compromising chiefs of police, in return for permission to work in the town, is infrequent, though not unknown. The method generally employed is a promise by the chief that he will permit the professional thief to live in his town with his family unmolested, if the thief will in return promise not to work in that town. Sometimes a money consideration aids the conclusion of such a contract. Aside from the utter selfishness of such an official policy on the part of a police chief, which practically amounts to inviting a professional thief to commit crimes in neighboring towns, it is in practice ineffectual. The chief of police, whether he receives an actual money consideration or

¹ Cf. Table 8, Chap. V, Sec. 2.

not, enjoys the confidence of the professional thief and is rewarded by being tipped off when a well-known professional criminal comes to town. The newspapers will then contain an advertisement that a certain well-known thief has been captured after a long and exciting chase ably conducted by our brilliant chief, when as a matter of fact the chase amounted only to a quiet walk to the hotel where the visiting thief was reading his newspaper and a request that the man accompany him to headquarters. His pocket and his personal vanity thus satisfied, the chief cares little for the security of the town which has been entrusted to him.

Sometimes thieves keep their agreements not to work in the town which protects them and sometimes they violate their agreements. Suffice it to say, that if the thief does break his word and there are no earmarks on the theft, by which it can be definitely traced to him, all he has to say, when asked by his protector as to who did it, is that it must have been done by "outside talent." In other words, he can work with almost absolute safety in the town and the innocent public is paying taxes all the while for a police force that ought to be able to apprehend him. It should be remarked in this connection that sometimes the entire municipal administration is corrupt and favors this policy of compromise and in such a case an honest chief of police could not hold his office for any length of time.¹

It is not difficult to ascertain the causes of this unsatisfactory character of some of our professional police chiefs. In the first place, American municipal government is just now passing through a transition period. Corruption and dishonesty are found everywhere in public life and are not entirely unknown in private life. The citizens get as good a police service as they want. A police chief who is willing to grant protection to a professional criminal for a consideration is the kind of a man who will also for a smaller consideration allow a merchant to vio-

¹ Flynt, *Independent*, li, 3063.

late the municipal ordinances relating to street encumbrances. A police chief who is thoroughly honest would certainly use every endeavor to drive professional criminals from his town, but he might also prevent violations of municipal ordinances. If so, the respectable citizens directly affected would rise up in arms against him, and his official life would be short. Then too, although the average citizen wants what he calls a liberal police administration, he seldom realizes how corrupt the police are until some incident such as the picking of his pocket or a visit to his house by a burglar brings him into intimate contact with the police. If either of these misfortunes could happen to a majority of the citizens within half a year American police conditions would be rapidly improved. But even without the friendly assistance of such a calamity, we can do something to better the general tone of our professional head of department by correcting defects in our method of selecting him.

In order to become a chief of police a man must at the present day have political influence, good physical condition, seniority of service, comparative freedom from official demerits, a very slight mental superiority, sufficient to enable him to pass a civil service examination, and in many cities, it is said, sufficient money to lubricate the appointing machinery. He is almost invariably a professional police officer who has learned the police business from the bottom, and he generally understands it thoroughly. But his character is not always satisfactory. Frequently he was a professional politician before he became a policeman and constant association as a police officer with criminals, as well as the employment of the means generally necessary to secure advancement, cannot serve to make him a better man morally. The large majority of the patrolmen are undoubtedly upright and honest men but these honest men seldom rise to superior positions. Being thoroughly experienced in the police business, the American chief of police has one great ad-

vantage,—he has an unexcelled power of command, and he knows how to govern the uniformed force. In times of great emergency, when the streets are in the hands of a riotous mob, he can quickly disperse the lawbreakers and restore order. In this respect the American police chief is undoubtedly superior to the professional head of department in foreign countries.

But when it is a question of the enforcement of the statutes and ordinances from day to day, the character of the American chief is such that he is frequently unable to resist the temptation to show favoritism, whether it be in return for political favors received or hoped for, or whether it be for a money consideration. The professional head is simply doing what many other public officials in other departments and what not a few persons in private life do not hesitate to do. He unfortunately does not have a proper conception of the high public trust reposed in him, but thinks that, since one good turn is worth another, it is only proper that he should return official favors as chief of police to him who has given him political favors as party leader of the dominant political party. Such is the condition of affairs in our present transition period in American city government.

In the German system there is no non-professional head of the police force, since the non-professional head is a professional, if we may use that paradox. The German police force consists of patrolmen called *Polizei-diener*, subordinate officers called *Sergeanten*; and at the head of the force is a commissioner called either *Kommissar*, *Direktor*, or *Praesident*, in different localities, with the exception of some German cities which have a local police force under the control of the *Bürgermeister*. In the larger cities of Germany the *Praesident* is assisted by professional subordinates, who have sometimes risen from the ranks of the uniformed force as in the United States, but more frequently these subordinates are men who are themselves preparing for positions as *Kommis-*

sar or *Direktor* in smaller cities. In other words, there is in Germany a sharp differentiation between the policemen and the superior officers of the department, which is analogous to the conditions existing in the armies of every civilized country in the world. In the German police forces the patrolmen are recruited from the ranks of the privates in the army and the police sergeants, whose duties are similar to those of our American roundsmen, are generally non-commissioned army officers with twelve years' experience. These policemen are thus selected from about the same position of society as are our American policemen, but with this exception, that the German policeman has had the advantage of a thorough military training and the German police sergeant a long experience as a petty officer in the army.¹ Military training has a wonderful effect in raising the intellectual, the physical, and the moral character of the German youth, and in fitting him to perform the duties of a policeman, while experience as a petty army officer is undoubtedly a great advantage to a man who wishes to perform efficiently the duties of a police sergeant.

As regards the qualifications demanded of the head of the police force in Germany, they are those required of all members of the higher administrative service, at least in the larger cities, where the police force is under the control of the central government. These qualifications may for the sake of convenience be considered under two heads,—general qualifications and qualifications of capacity. The general qualifications include citizenship, which, however, is in many cases obtained by the appointment; good character, generally more stringent than in the United States; age and the fulfilment of military service, or proof that the candidate is physically unfit for service. The purpose of the qualifications of capacity required for entrance into the higher administrative service is to bring into the service at an early age men who possess

¹ Mascher, *Polizeiverwaltung des Preussischen Staates*, 105.

wide general culture and a special knowledge of legal and political science.

In the first place, a good secondary education must have been had, and then a three years' study of law at a university. Proof of such study must be submitted to one of the higher courts, which proceeds through a commission to examine the candidate. The examination is both oral and in writing, and is upon the private and public law, legal history, and the principles of political science. The candidate must also before the examination write an original dissertation on some legal subject, the general character of which he may select. For the successful candidate the passage of the examination marks the beginning of the period of practical training. He is at once assigned to work with some one of the higher courts. After working two years with the court he is assigned to work for another two years with some administrative authority. During his connection with these authorities he is known as a *Referendarius*, and the law requires the presiding officer to devote his personal attention to his instruction and expressly forbids such presiding officer from making use of him simply to aid him in his labors. The presiding officer must furthermore keep a record of the *Referendarii* under his charge.

At the end of this long period of probation the candidate, if his work has been satisfactory, is to present himself for the final examination, which is conducted by a special examining commission at Berlin. This is likewise an oral and written examination in public law and political science and the *Referendarius* who passes successfully this great state examination is appointed an *Assessor* and assigned to a salaried position in the higher administrative service. If it is his ambition to enter the police service, he will probably soon find his way to the position of assistant commissioner in a smaller city. Vacancies in the position of commissioner of police are invariably filled from the ranks of the most efficient commissioners in

the smaller cities, who are always willing to move to the larger cities. The higher rank and higher salary constitute a distinct promotion in the administrative system.¹

Having described the qualifications of the German commissioner of police in this somewhat summary manner, let us pause to pick out the important requirements from the point of view of administrative efficiency. In the first place, the German commissioner has an excellent preliminary education ending with graduation from a *Gymnasium*, which is almost, though not quite, equivalent to a college education in America. In the second place, he has a thorough professional training in public law, consisting of a three years' course at a German university. Thirdly, he has a practical education in administration while serving his apprenticeship as a *Referendarius*. Starting out in his official career with this sound general, professional, and practical education, he is prepared to make police administration his life-work. He is an expert in the theory of his profession when he enters upon his first position, and has in addition a good knowledge of the practical details of the work, which he has gained during his apprenticeship; before he reaches in the course of promotion the commissionership of a large city he is an expert, both in theory and in practice. Having definitely made up his mind to make police administration his life-work, and knowing that his advancement to a higher and more important post depends almost entirely upon his personal proficiency and his administrative efficiency, he has every incentive to make himself an expert in his professional field.

Comparing the method of selecting police commissioners and the character of the men selected in Germany, with the mode of selection and the men selected in the United States, it is not possible for us to say truthfully that the better police conditions in Germany are due entirely to a greater respect for the law and a more repressive police administra-

¹ Cf. Goodnow, *Comparative Administrative Law*, ii, 48.

tion. Both of these elements, it is true, are present in Germany to a larger extent than in America, but their influence must not be exaggerated. Our American experience shows that our method of selecting police commissioners is more likely to result in the selection of an inefficient than in the selection of an efficient commissioner. We have also seen that an educated and honest police commissioner can raise the entire tone of the police force during his incumbency. Commissioner Theodore Roosevelt accomplished this, although he probably did not succeed in banishing all corruption from the force, or in raising the general efficiency of the force to the high level of the German police organizations. Nor was this an extraordinary accident. The administrative system develops the administrative head, who in turn vitally influences the character of his subordinates. Can we, for example, imagine the following incident as occurring in Germany?

Riding on an express train a student of public affairs got into conversation with a man who said he was a chief of police in a large city. He showed his shield to prove his statement and, having already taken enough liquor to be talkative, he said, "I had no idea of coming to the metropolis, but I made a touch and I thought I would blow it in. You see, it was this way. I got a telephone message from the railroad station that three of the biggest crooks in the country were down there, preparing to take a train. 'What you doing here?' I asked. 'Nothin',' they said. 'We ain't done no job here, and we ain't goin' to do none. We are just passin' through.' I knew they had not done anything in town and so I said, 'Come, that won't do. How much money you got?' 'Only a little,' they said. 'Shell out, or up you go,' I replied. I could easily have fixed them, put up a job on 'em and sent 'em up as suspicious characters, and so they had to give up. They had \$1500. I took \$1200, run 'em out of town, and now I am going to have a good time." This incident is certainly not representative of

American police conditions, but it is in a way thoroughly characteristic. Could we conceive of its being characteristic of police officers trained and selected as they are in Germany?¹

The qualifications required of the head of the police forces in England and France resemble the German qualifications more closely than they resemble American conditions. Yet neither in England nor in France are the police chiefs as efficient as in Germany. The English and the French systems are similar to the German system in so far as the head of department is a professional and not a non-professional officer. In England likewise the larger cities select their police chiefs from the ranks of the police chiefs of smaller cities. No examination is required of candidates for these positions in England, however, and likewise no specific preliminary training is demanded. Practical experience as a chief of police is invariably a prerequisite and the watch committee of the municipal council, which has charge of all police matters, generally succeeds in selecting thoroughly capable men. In other words, the English system of selecting the head of the police department is not as well developed from the point of view of municipal science as is the German system, but in practice, owing largely to the excellent general character of the British watch committees, it works almost, though not entirely, as well as in Germany. In France the head of the police department in the larger cities is appointed by the President of the Republic or by the Minister of the Interior. No examination is required of applicants and the influences which secure an appointment from the President of France are similar to those which are employed generally to secure appointments of various kinds from the President of the United States. The position of chief of police in the larger cities is considered a position of considerable political importance, because of the important political duties entrusted to the police. It is accordingly con-

¹ *World's Work*, ii., 1314.

sidered necessary that the chief of police be in thorough political sympathy with the whole administration. Like all systems of political appointments, the French system results in the selection of police chiefs who, though possibly in some respects slightly superior in character to the American chiefs, are yet distinctly inferior to their German and English confrères.

SECTION II. SUBORDINATE OFFICERS

- Roundsmen—Intercourse with Patrolmen—Qualifications—Selection — Certification — Sergeants — Duties—Qualifications — Lieutenants — Duties —Captains—Duties—Selection — Merit System—Character—Assistants to the Chief— Inspectors — English System—Promotions—Examinations—Discipline.

It is a fundamental principle in administrative organization which demands that the operatives be under the personal direction of a superior. In the factory we have the forewoman; the masons have a foreman; the section gang on the railroad, a section foreman; and the clerks in the employ of the government, a chief of division. There is a twofold necessity for such a supervisor. The operatives in every administrative system are individuals of limited education and intellectual capacity. There is a constant tendency on the part of a majority of them to shirk their work. As one great executive remarked: "Men are as lazy as they dare be." But even if all the operatives were well educated, intelligent, and industrious, the supervisor would be required to direct their work. Each man in doing his own work has no opportunity properly to comprehend his relative position in the administrative system, and it is the duty of the supervisor to plan the work and to co-ordinate the efforts of his operatives in carrying it to a successful conclusion. The police business differs in this respect little from other great organizations. The patrolmen are almost invariably men of limited education and intelligence. The authority

with which they are invested, and the respect shown them by the citizens, create in them an inordinate desire to shirk their work or, as they themselves express it, "to take it easy." Here is the primary need for supervisors of patrolmen, who are called in different cities of the United States either roundsmen, lieutenants, sergeants, corporals, non-commissioned officers, street sergeants, squad sergeants, or round sergeants. In discussing the duties of these officers in the present monograph, they will be called roundsmen, which was their title until very recently in New York City and which is the title which indicates most clearly their duties.

The duties of the roundsman may, perhaps, be best described chronologically. Before going out upon patrol duty the patrolmen of the platoon are lined up before the station-house desk for roll call, inspection, and instruction. The roll is called by the desk sergeant, who also gives to the men any routine instructions which he may have. The roundsman next inspects the platoon. The purpose of this inspection is to make sure that the patrolmen are neatly attired and carry all of their necessary accoutrements. Batons, keys, and revolvers are inspected at each roll call and charges preferred against any patrolman who has forgotten any part of his equipment. With a sharp command of "Fall in! Forward march!" the roundsman marches his platoon in military fashion through the streets to their respective posts and personally sees to it that each patrolman relieves his predecessor at the proper street, charges being preferred by the roundsman against any patrolman not found at the relieving post at the proper time, and unable to explain his absence.

During the time that his platoon is performing patrol duty, the roundsman must also patrol the precinct and is responsible for the proper performance by the patrolmen of their police duties. He must visit each patrolman as often as possible, and in no case less than once during

each tour of duty. If possible, the roundsman must endeavor to find the patrolman on post without calling him, but, failing in this, the call is sounded by the roundsman with his baton or with his whistle, once at each end of the patrolman's post and once at the centre. If after this the roundsman is still unable to find the patrolman, he either covers the policeman's post himself or orders the policemen on the neighboring posts on each side to cover it. The matter is reported by the roundsman in writing to the captain of the precinct and charges are preferred against the patrolman, unless he satisfactorily explains his absence. While making his rounds, the roundsman must, furthermore, carefully note any delinquency or violation of the rules and regulations by any of the patrolmen, as well as carefully investigate the character of all suspected houses and persons on the several posts which he is covering.

It is the duty of the roundsman to become thoroughly acquainted with the relative efficiency of the patrolmen under his charge and he must avoid all unofficerlike familiarity with his subordinates. Roundsmen are forbidden to walk or converse with patrolmen, except while actually engaged in the transaction of police business. Roundsmen must enforce a respectful and strict obedience from the patrolmen and instruct the patrolmen in their respective duties. As a superior officer coming into immediate and constant intercourse with the patrolmen, the roundsman is expected to set an example of sobriety, discipline, energy and activity, of neatness and accuracy, of thoroughness and courtesy, and of moderation and dignity at all times and in all places. In case of fire, riot, or other serious emergency, the roundsman on duty nearest the scene of the disturbance must report the matter at once to the station-house and, in the meantime, take command at the scene of the disturbance, and take such action as the emergency may require. The roundsman whose platoon is on reserve duty at the station-house

may, in case of a serious tumult which requires the presence of the sergeant at the scene of trouble, be called upon to take charge of the desk and become for the time being an acting desk sergeant. The roundsman of the platoon which is on reserve at the station-house at night must make at least one inspection every night of the dormitories in which the patrolmen sleep and prefer charges against any patrolman guilty of irregular, negligent, disorderly, or uncleanly habits.¹

Briefly stated, every roundsman should possess all the qualifications of an ideal patrolman. Examining the various methods employed in the United States in selecting roundsmen, to ascertain whether they succeed in promoting to the rank of roundsman only ideal patrolmen, it is found that in the historical development of the American police system the roundsman was, at first, a man who had never served as patrolman, but was selected by the chief from outside of the police force. Whether an officer selected in this manner was an efficient roundsman depended entirely upon the honesty and ability of the chief, but a roundsman selected in this manner certainly frequently lacked police experience,—a very important qualification for the position. The next step was to recognize the fact that a roundsman must be an experienced patrolman and to appoint to the position of roundsman only patrolmen of the city's police force. This is the universal rule in the United States to-day.

In selecting the patrolmen deemed worthy of promotion, the only requisite was that the patrolmen have sufficient political influence. Two or three decades ago this was the rule in all the cities of the United States; to-day, it is the custom in all but a score of the largest cities. When the chief of police of a city was dishonest, political influence failed to secure promotion, unless the applicant in addition was able and willing to pay for it.

¹ *Manual Louisville Police*, Rule 8.

The Lexow Investigating Committee of the New York Legislature learned from competent and trustworthy witnesses that there was a published tariff of the prices to be paid by all the applicants for promotion. When the non-professional head of the police force was honest and of a strong personality, he sometimes succeeded in ignoring political considerations when promoting patrolmen to the rank of roundsman. Such cases were of infrequent occurrence. Yet, Theodore Roosevelt made it a rule of his office to ignore all racial, religious, or political considerations in making promotions, and his plan was to promote the policemen whose courageous deeds entitled them to a police medal or to honorable mention, unless their entire police record was so bad as clearly to show them to be unfit for appointment as roundsmen. This system was certainly better than the system of political promotions, since such prompt reward of meritorious service was a great incentive to the patrolmen, but it is doubtful whether men who risk their lives by performing brave deeds necessarily make the best roundsmen.¹

In the largest cities of the United States to-day promotions of police officers are made after a civil-service examination, which consists of three parts,—a mental examination, a physical examination, and an administrative examination. All of these examinations are thoroughly practical. For promotion from the position of patrolman to that of roundsman the mental examination includes problems in simple arithmetic, such as the average child in the fifth or sixth school year can readily answer; a memory test, which consists of a verbal police order of about thirty words, repeated twice by the examiner and to be reproduced in writing by the candidates; elementary questions on city government, consisting principally of questions designed to test the candidate's knowledge of the relations existing between the police department and the other departments of the municipal government, and ques-

¹ *Century*, liv, 803.

tions on the duties of a roundsman as contained in the Police Manual of the city. The physical examination is generally conducted by the police surgeons and consists of physical tests, medical tests, agility tests, strength tests, and special sense tests, designed to determine the policeman's physical fitness to perform police duty. The physical examination for promotion to the position of roundsman is similar to the physical examination for the position of patrolman.

Having determined by the mental and physical examinations that the applicant is physically and intellectually eligible for promotion, the administrative part of the examination determines from a critical study of his work as a policeman what the character of his work as a roundsman will probably be. In the administrative examination each applicant is given a minimum rating to start with,—generally eighty per cent. His official record is then examined and he is given credit for every meritorious act requiring physical courage, performed by him in the due course of duty. Three per cent. is generally given for honorable mention and five per cent. for a police medal. His record is next examined for entries of official delinquencies, and he is penalized one per cent. for each day's pay which he has lost as the result of the decision of a trial officer, convicting him of a violation of the rules and regulations of the department.

The percentage which a candidate receives in this administrative or record examination is the best possible test of his efficiency as a patrolman and the general average of the percentages received in the mental, the physical, and the administrative examinations is the best test of the candidate's potential value as a roundsman thus far devised. The candidates receiving a passing mark—and seventy-five per cent. is generally fixed as the passing mark—are placed on an eligible list in the order of their respective percentages, with the single exception that veterans of the army or navy who receive a passing mark

are placed at the head of the eligible list. From this eligible list three names are certified to the non-professional head of department for each vacancy occurring in the position of roundsman, and a name which is rejected by the appointing officer three times is not again certified, except by special request of the appointing officer. This merit system is undoubtedly the very best possible test of the potential efficiency of candidates for promotion and, in so far as the civil service examination itself is concerned, it divorces the subject of police promotions entirely from the baneful influence of political and pecuniary considerations. The dangers and evils arising from the peculiar manner in which, under the law, eligibles are certified for appointment will be considered later.¹

Although in the United States we do not consider the police precinct station-house as important a place as do the people of Europe, yet every municipal police department finds it necessary to keep a superior officer at the station-house desk every minute of the twenty-four hours. This officer is called in the different cities of the United States either sergeant, desk sergeant, house sergeant, lieutenant, station-house keeper, or station keeper. In the present monograph these officers will be called desk sergeants, which is their title in Washington, D. C., and which is the title expressing most clearly their duties. The desk sergeant performs four distinct classes of duties,—clerical duties, police duties, janitorial duties, and judicial duties. The clerical duties of the desk sergeant require him to keep the station-house blotter and all other precinct records, as well as to prepare for transmission to the central office all reports required to be made by the rules and regulations, or by general or special orders.

His police duties include careful inspection of the uniforms and equipment of each outgoing platoon, a patrol

¹ *Infra*, Chapter III, Section 2.

of the precinct when not serving at the desk, for the purpose of supervising the work of the patrolmen and roundsmen, and the promulgation to the outgoing platoon of all orders received at the precinct from the chief of the force. While on patrol duty, the sergeants rank superior to the roundsmen, but all the regulations governing the conduct of roundsmen, while in the performance of their duties, apply also to the sergeants. In the police departments of those cities in which there is no officer intermediate in rank between the captain and the sergeant, the captain must designate one sergeant who is to exercise all the powers of the captain in the captain's absence; such a sergeant then bears the title of "sergeant in command," while serving as an acting captain.

From the historical point of view the sergeant's janitorial duties were, in America, his most important function. It is still to-day his duty to keep the station-house well cleaned, well lighted, and heated, to exclude therefrom all persons who do not come there for the purpose of transacting business, and to inspect every part of the station-house at least once during each tour of duty. The sergeant's judicial duties relate almost exclusively to the arraignment of prisoners before his desk. Every patrolman on making an arrest must conduct his prisoner at once to the station-house, using a patrol-wagon for the purpose, if the condition of the prisoner demands it. Upon arriving at the station-house, the patrolman arraigns his prisoner before the sergeant's desk, and the sergeant inquires into the nature of the charge and records in the blotter the name, age, conjugal condition, occupation, and address of the prisoner, together with the nature of the offense with which he is charged. After this, the prisoner is searched and all money and valuable property found on his person is handed to the sergeant for safe-keeping and transmission to the property clerk of the department.

The sergeant is further authorized to accept bail in

all cases of misdemeanors. In some cities of the United States he can also issue warrants of arrest. In addition to these legal judicial powers, important as they are, the desk sergeant has far more important extra-legal judicial powers. These extra-legal powers show that the judicial functions of the police officer on duty at the station-house are absolutely essential and, if not provided by statute, as in France, they will be supplied by extra-legal customs. In considering complaints submitted to him by citizens, in determining whether a prisoner arraigned by a patrolman should be locked up, and in settling disputes between citizens, he practically acts as a judge, although neither the statutes nor the regulations make any mention of these duties. The proper discharge of these duties requires discretion, intelligence, education, and experience.¹

Just as the duties of the desk sergeant are of a four-fold character, so the qualifications which the ideal sergeant should possess are four in number. He should be able to write a fair hand and to prepare written reports with ease; he should be thoroughly experienced in the police business; he should be discreet and intelligent; and he should have at least a rudimentary knowledge of criminal law. The civil service examination for promotion from the position of roundsman to that of sergeant aims to select men with these qualifications. Like the promotion examination for the position of roundsman, it consists of three parts,—a physical examination, an administrative examination, and a mental examination. Both the physical examination and the administrative examination are the same for the position of sergeant as for the position of roundsman; the mental examination, however, is slightly different.

In addition to the subjects included in the mental examination for promotion to roundsman, the examination for promotion to sergeant requires the candidate to sub-

¹ *New York Police Manual*, 1908, Rule 43.

mit a police report, by which his ability to prepare a written report is tested; and the question paper in the subject of government includes legal questions in criminal law and the law of evidence, by which the candidate's knowledge of the principles of law arising in the daily routine of the sergeant's line of duty may be ascertained. As long as the sergeant is to be selected from the ranks of the police officers of the next lower grade, this civil service examination undoubtedly secures the best available material. If the sergeant is to perform patrol duty in addition to his clerical and judicial duties, he must certainly be selected in this way to make sure of his being an experienced police officer. We may, however, obtain some valuable suggestions on this point from the corresponding officers in the English, French and German police systems.¹

Almost every large city in the United States is divided into districts called police precincts, and an officer called a captain is placed in charge of each precinct. The captain is required by the regulations to be on duty twenty-four hours each day and, since this is a physical impossibility, various expedients are employed to remedy this defect. Most of the larger cities in the United States have not yet made any formal provision for an officer who is to perform the duties of the captain, when the latter is taking the rest which every human being requires. The captain is in command of the precinct every minute of the day and when he is not at the station-house, he is to be called at once in case of any emergency. He is granted no regular annual vacation and, furthermore, cannot even leave his district except by special permission of the police commissioner, which is seldom granted for a period longer than twelve hours.

Only in case of the illness or disability of the captain does the command of the precinct devolve upon a desk sergeant, previously designated to act as sergeant in command. This system, whereby the desk officer is

¹ Cf. p. 71, *infra*

to perform the duties of the commanding officer in addition to his own duties as desk officer in the absence of the captain, works fairly well in the case of a small precinct, where neither the captain nor the desk sergeant has much to do. But in a larger and more important precinct it is absolutely essential that there be a separate commanding officer at all times. A similar need is recognized in the organization of the United States Post Office Department. For the administration of the postal service, each city is divided into districts called stations, each station being in charge of a superintendent who is held absolutely responsible for the condition of his station, but who is at the station for only eight or nine hours each day. Accordingly, in the case of the larger and more important stations two assistant superintendents are provided, each of whom serves eight hours, while the superintendent also serves eight hours.

In Boston, St. Louis, Baltimore, and a few other cities, the need of a commanding officer of police in each precinct at all times of the day and night has been so acutely felt that provision has been made for a lieutenant of police. Such lieutenants of police exercise all the powers and discharge all the duties of captains, in the event of the sickness or absence of the latter from their respective station-houses, and at all other times they act as assistants to the captains. When in command of the precinct the lieutenant must naturally be careful not to interfere with or countermand, unless absolutely necessary, any orders previously given by the captain. In St. Louis, the captains are generally in command at the station-houses during the day and the lieutenants during the night; in Boston captains and lieutenants alternate in performing day and night service. If every company of soldiers in the army requires a lieutenant who can assist the captain and take the captain's place in case of the latter's disability or absence, every important police pre-

cinct has certainly as great need or even greater need of a lieutenant or assistant captain.¹

The sergeants in an important precinct are kept quite busy by their own duties and have little spare time to devote to the performance of the duties of commanding officer. But aside from this, the absence of a commanding officer from his precinct and the knowledge that there is no lieutenant taking his place has an important effect both upon the patrolmen and roundsmen of the precinct, and upon the professional criminals operating in the district. The former shirk their work and let matters drift, and the latter are quick to take advantage of the opportunity thus afforded them. This state of affairs is so well known in New York that when the captain of the most important precinct in New York is granted a twelve-hour leave, newspaper reporters flock to the station-house, confident that important news will soon be forthcoming. And they are seldom disappointed.

The captain of police is undoubtedly the most important police officer in our American police system. Almost every city of the United States, which is of sufficient size to permit of its being divided into districts, is divided into police precincts, and an officer called a captain is placed in command of each precinct. The duties of the captain may be divided into two broad classes,—police duties and administrative duties. The police duties of the captain may be conveniently summarized by stating that he is held responsible for the preservation of the public peace and the protection of life and property in his precinct. He is expected to make an inspection of his precinct every day to note its condition; he must give his personal attention to all serious felonies, large fires, and riots, promptly notifying the chief of police if he has any doubt of his ability to preserve the peace; he must give special attention to the enforcement of the excise, gambling, and vice regulations, and the inspection of

¹ *Boston Police Regulations*, Rule 19.

licensed places. The administrative duties of the captain may be summarized by stating that he is held responsible for the discipline, good conduct, and efficiency of the force under his command.

The captain's administrative duties are of three kinds,—clerical, janitorial, and supervisory. His clerical duties include the examination and signing of all records, reports, and returns, prepared by the desk sergeants or clerks of his precinct, while his janitorial duties make him responsible, if any prisoner escapes from the station-house, if the station-house, the prison, and the dormitories are not kept in good sanitary condition, or if any person calling at the station-house on legitimate business is discourteously treated, or any person not calling on business is permitted to loiter in the station-house. By far the most important duties of the captain, however, are his supervisory administrative duties. Being held responsible for the maintenance of good order in the precinct, the captain is vested with the power to post the men under his command in such parts of the precinct and to assign them such duties as he may deem expedient.

The captain in most cities designates and defines the beat of each policeman and makes details. In the largest cities it has, however, been found that captains may abuse this power and, accordingly, the power has been limited, by requiring that all assignments and details be approved by the chief of police or one of his assistants, and that no policeman be assigned by the captain to do any work other than police duty. Each captain must either personally call the roll at the beginning and termination of each tour of duty and inspect the uniforms of his men, or he must see that this is done by the sergeant at the desk. He must also carefully instruct his men in their duties and call to their attention all orders and decisions of the chief of police. And finally, the captain is authorized to promulgate, subject to the approval of the chief, such rules for the government of the force under his com-

mand as may not be inconsistent with the general regulations of the department and he must furthermore prefer charges against any member of his command whom he finds guilty of any dereliction of duty, as well as call to the attention of the chief any specially meritorious act performed by a police officer.¹

¹ *Baltimore Police Manual*, Rule 9.

Table 1. SUBORDINATE OFFICERS IN AMERICAN POLICE FORCES.

CITIES. (In order of size.)	Patrolmen, Number.	Patrolmen, Minimum Salary.	Patrolmen, Maximum Salary.	Roundsmen, Number.	Roundsmen, Salary.	Sergeants, Number.	Sergeants, Salary.	Captains, Number.	Captains, Salary.	Not Specified.
1. Chicago, Ill.	2305	\$1100	\$1100	103	\$1200	135	\$1200	60	\$1500	.....
2. St. Louis, Mo.	.....	900	.....	100	1380	12	1560	12	2400	.....
3. Baltimore, Md.	700	936	.....	129	1140	19	1300	8	1660	.....
4. Cleveland, O.	380	780	840	28	1200	27	1323	4	1800	.....
5. Buffalo, N. Y.	607	900	.....	39	1020	43	900	13	1400	.....
6. Pittsburgh, Pa.	410	1095	.....	20	1186	10	1277	5	1380	.....
7. Cincinnati, O.	398	810	1020	20	1050	32	1150	21	1300	.....
8. Milwaukee, Wis.	306	840	960	16	1200	6	1400	1	2100	.....
9. Detroit, Mich.	356	760	900	.....	.....	23	1100	11	1500	.....
10. New Orleans, La.	206	660	.....	24	780	13	840	6	1000	.....
11. Newark, N. J.	286	1095	.....	13	1200	15	1300	4	2000	.....
12. Jersey City, N. J.	257	720	1000	19	1100	26	1350	7	2000	.....
13. Minneapolis, Minn.	133	720	900	17	1000	5	1100	6	1200	.....
14. Indianapolis, Ind.	.....	912	.....	.....	.....	.....	1020	.....	1320	.....
15. Providence, R. I.	.....	.....	.....	.....	.....	.....	.....	.....	.....	X
16. Kansas City, Mo.	.....	.....	.....	25	1030	8	1200	5	1500	.....
17. St. Paul, Minn.	140	840	.....	8	900	5	1040	1	2000	.....
18. Denver, Col.	.....	1020	.....	.....	1260	.....	.....	.....	1500	.....
19. Toledo, O.	113	900	.....	8	1020	3	1200	1	1500	.....
20. Columbus, O.	.....	.....	.....	.....	.....	7	1080	1	1200	.....
21. Syracuse, N. Y.	.....	900	.....	.....	1020	.....	1200	.....	1800	.....
22. Fall River, Mass.	94	964	.....	.....	.....	10	1100	5	1200	.....
23. Memphis, Tenn.	76	900	.....	3	1310	2	1200	2	1500	.....
24. Paterson, N. J.	.....	.....	.....	13	1300	.....	.....	1	1600	.....
25. St. Joseph, Mo.	51	900	.....	2	1800	.....	.....	1	1850	.....
26. Scranton, Pa.	.....	900	.....	.....	900	.....	1000	1	1200	.....
27. Lowell, Mass.	118	990	.....	5	1200	3	1200	4	1300	.....
28. Portland, Ore.	93	900	.....	3	900	.....	.....	3	1080	.....
29. Cambridge, Mass.	91	900	1080	6	1170	9	1300	4	1400	.....
30. Albany, N. Y.	116	700	900	16	1000	.....	.....	5	1200	.....
31. Grand Rapids, Mich.	.....	.....	.....	.....	.....	.....	.....	.....	.....	X
32. Dayton, O.	.....	.....	.....	7	1020	.....	.....	1	1500	.....
33. Seattle, Wash.	.....	840	960	.....	.....	.....	1200	.....	1500	.....
34. Hartford, Conn.	90	1000	.....	6	1080	1	1200	1	1500	.....

38.	Camden, N. J.	960	1044	4	1030	2	1250	2	1200
39.	Bridgeport, Conn.	850	1000	12	1150	4	1350	2	1350
40.	Troy, N. Y.	900	1000	68	950	5	1050	4	1050
41.	Lynn, Mass.	720	900	81	1075	7	1150	1	1200
42.	New Bedford, Mass.	900	1080	44	1080	3	1350	2	1250
43.	Somerville, Mass.	840	960	48	900	3	1080	1	1500
44.	Lawrence, Mass.	780	900	101	840	2	1020	2	1200
45.	Des Moines, Ia.	680	720	46	840	9	1000	1	1200
46.	Savannah, Ga.	720	840	89	720	3	1080	1	1200
47.	Peoria, Ill.	660	780	52	900	5	1600	1	1200
48.	Duluth, Minn.	780	900	20	900	10	1000	3	960
49.	Elizabeth, N. J.	800	900	28	900	1	1100	3	960
50.	Erie, Pa.	780	900	34	750	2	1020	2	1050
51.	Charleston, S. C.	780	900	35	960	3	1080	3	960
52.	Harrisburg, Pa.	810	900	40	840	2	1250	1	1300
53.	Yonkers, N. Y.	660	780	42	840	2	1080	1	1200
54.	Portland, Me.	660	780	17	660	13	900	1	1080
55.	Schenectady, N. Y.	660	780	29	900	4	1080	1	1080
56.	Holyoke, Mass.	660	780	11	900	1	1080	1	1080
57.	Fort Wayne, Ind.	660	780	2305	1200	60	2400	1	960
58.	Saginaw, Mich.	660	780	11	660	1	960	1	960
59.	Tacoma, Wash.	660	780	11	660	1	960	1	960
60.	Covington, Ky.	660	780	11	660	1	960	1	960
61.	Dallas, Tex.	660	780	11	660	1	960	1	960
62.	Binghamton, N. Y.	660	780	11	660	1	960	1	960
63.	Mobile, Ala.	660	780	11	660	1	960	1	960
64.	Springfield, O.	660	780	11	660	1	960	1	960
65.	Haverhill, Mass.	660	780	11	660	1	960	1	960
66.	Topeka, Kan.	660	780	11	660	1	960	1	960
67.	Davenport, Ia.	660	780	11	660	1	960	1	960
68.	Elmira, N. Y.	660	780	11	660	1	960	1	960
69.	Newton, Mass.	660	780	11	660	1	960	1	960
70.	Springfield, Ill.	660	780	11	660	1	960	1	960
71.	Chattanooga, Tenn.	660	780	11	660	1	960	1	960
72.	Williamsport, Pa.	660	780	11	660	1	960	1	960
73.	Cohoes, N. Y.	660	780	11	660	1	960	1	960
74.	Newport, R. I.	660	780	11	660	1	960	1	960
75.	San Diego, Cal.	660	780	11	660	1	960	1	960
	Maximum.	2305	1200	11	660	1	960	1	960
	Minimum.	11	660	11	660	1	960	1	960

Captains of police in the United States are generally appointed without passing a civil service examination, although a few of the largest cities require them to pass a civil service examination, similar in almost every respect to the examination for promotion from roundsman to sergeant. Where captains are not selected according to the civil service rules, they are appointed either by the chief of police, or by the mayor on the recommendation of the chief of police. In the historical development of the American police system the first method of appointing police captains was the method of appointment by the chief on the recommendation of the ward leader. Such a system is unqualifiedly bad, both from a theoretical and from a practical point of view. We have now reached that stage of development where we regard all political considerations as improper means of influencing appointments, and neither in the police department nor in any other branch of our government do our statutes to-day provide for appointments upon the recommendation of a ward leader.

In the small and medium-sized cities the appointment of captains by the chief is undoubtedly a very good method of selection. The chief, if he is an honest and efficient officer, knows better than any one else can, whether a man has the qualifications requisite for the making of a good captain. If the chief is either dishonest or indifferent, the requirement that appointments to this position must be approved by the mayor, or as it is generally stated, should be made by the mayor on the recommendation of the chief, will not help matters very much. The mayor cannot ordinarily spare the time to investigate the character and record of candidates with any great care, and even if he should do so, he cannot be expected to have even as much expert knowledge of the police business as the least efficient chief of police is bound to have. If political considerations would be likely to influence the chief in making appointments, the fact,

that the mayor is generally of the same political faith and that in the nature of things appointments of police captains, when made by the mayor, are more or less matters of routine, shows clearly that the action of the mayor does not generally serve to check improper action by the chief of police in the appointment of captains.

The method of selecting captains at present in use in the largest cities is undoubtedly the best, at least from a scientific point of view. Candidates for appointment are required to pass a civil service examination and are then placed upon an eligible list in the order of the percentages received by them on their examinations. The civil service examination inquires not only into their mental ability, physical fitness, and previous police record, but also gives credit for seniority of service, on the principle that, if other things are equal, the man who has served longest in the police department and has most experience is best qualified to perform the duties of captain. The names on the eligible list are certified to the non-professional head of the police department for appointment in the order of their standing on the eligible list, three names being certified for each existing vacancy. From this description it would seem as if this system of selection were almost perfect; it removes the process of selection from all political and baser considerations, and yet gives the appointing officer a wide discretion, which he can use so as to avoid appointing inefficient men, whose names may have been placed on the eligible list. Yet, the fact remains that in a few of our largest cities where this system is in force, whether the police commissioner is honest or the reverse, scarcely a man is appointed to the position of captain who does not either possess strong political backing, or is willing to pay for his promotion, or has both of these qualifications. This is one of the mysteries of police administration in the United States which we shall endeavor to solve later.¹

¹ *Infra*, Chapter III, Section 2.

The general character of police captains in the United States compares very favorably with the character of corresponding officers in the principal European countries. What the American police captains lack in educational qualifications of the kind obtained by attendance at school or college, they have generally gained by experience. They are men of robust constitution, good physical development, experienced in the police business, and possess excellent executive ability. They are keen judges of men and quick to get at the gist of matters brought to their attention. The police business with its intimate and constant contact with the dregs of society is not ordinarily conducive to the promotion of the moral character of the police officer, but the careful observer of American police conditions will find that there are not more disreputable or immoral captains of police in America than there are men of similar character in any other walk of life. It is undoubtedly true that a few, a very few, men who were scoundrels have worn the uniform of captain of police in some of our American cities, but their number has been exceedingly small and the present tendency within the police department as well as outside is quickly to get rid of such men.

Complaints of blackmail on the part of captains are sometimes heard. In a few cases the captain may possibly resort to blackmail to increase his income or reimburse himself generously for the expenditure which he was required to make to secure his appointment, but cases of this character are of such infrequent occurrence as to be almost a negligible quantity. Where police captains levy blackmail,—and there is hardly an American city in which they have not at one time or another levied blackmail to a greater or lesser extent,—they do not levy it of their own volition, but rather at the command of a superior officer. If a single captain should attempt systematically to levy blackmail, he would be sure to excite the envy of his superior officers, even if the moral

impropriety of his conduct did not shock his superiors. Hence, where blackmail is levied by police captains to any appreciable extent, the captain is merely the collecting agent of a system of blackmail. For his services in this connection, it is true, he receives a share of the proceeds, which he accepts not unwillingly, partly because a refusal to do so would arouse suspicion and quickly lead to the end of his police career, and partly because he justifies himself by saying that what his superiors do he may do without compunction. While this philosophy may well be criticized from the point of view of sound morality, it is a fallacious justification in which many men of a higher social standing than police captains frequently indulge. The whole subject of blackmail is very intimately connected with the administration of the laws relating to vice, gambling, and the liquor traffic, and will be further considered in that connection.¹

The head of the police department in American cities has two kinds of assistants,—deputies and inspectors. It is the duty of the deputy—called in different cities, either deputy commissioner, deputy superintendent, deputy chief, or chief inspector—to assist the head of department by performing such duties as the chief may assign to him. Generally, it is his duty to receive and investigate all citizens' complaints and to attend to all the routine correspondence of the department. This relieves the chief of the burden of attending to all the mechanical details of the police department and gives him more leisure for the consideration of questions of policy affecting the administration of his department. Yet the fact that the statutes do not authorize the head of department to delegate to a deputy the power of signing authorizations for the expenditure of public funds, makes it necessary for the chief or commissioner to spend almost an hour each day in signing his name to papers involving the expenditures of comparatively small

¹ Chapter VIII, *infra*.

amounts of money. Much valuable time is wasted in this way.

Deputies are either appointed by the head of department from among his personal friends or they are promoted from the rank of captain. The mode of selecting these officers is of slight importance, since their principal function is to carry out the administrative policy of their superior. If the chief is efficient and honest, he can easily get rid of an inefficient or dishonest deputy; if the chief is dishonest and inefficient, an honest deputy has only one course open to him,—that of tendering his resignation. In some cities the deputy chief is placed in charge of the detective department, while in others the chief commands the force during the day and the deputy chief during the night. In nearly every city the deputy, in the absence of the chief, performs all of his duties and exercises all of his powers.¹

The function of the inspector is of prime importance in every large administrative system. Upon the honesty and intelligence of this officer depends to a larger extent than upon any other single factor the general efficiency of the whole organization. The United States Treasury Department, which is conceded by all experts to be the most efficient of the executive departments of the United States national government, owes its efficiency to the thorough system of inspection carried on by officers known as special agents. These special agents are more than spies whose duty it is to ferret out and report cases of individual delinquency on the part of subordinate officers, although it is true that this is one of their important functions. The efficiency of an organization is bettered only negatively by criticism and the report of delinquencies. The inspection work which is of greatest value consists of affirmative betterment, by means of criticism of methods and not of men, and by means of general suggestions for improvements. This

¹ *St. Louis Police Manual*, p. 14.

is the principal function of the true inspector, although he should also report cases of serious delinquency which come to his notice. The inspector who looks only for cases of delinquency is a spy and is hated by all the subordinates as a spy deserves to be hated; the true inspector is regarded by the subordinates as a friend, who wishes to assist them in their work, and the relations between the inspector and the person inspected are most cordial.

In the American police system the function of the inspector has never been clearly differentiated. Some cities have no inspectors of police and require the deputy chief to inspect the precincts; in other cities the inspector is merely a district commander in charge of a district composed of several precincts. In nearly all cases, whether the function of the inspector be performed by a deputy chief, a district commander, or a special inspector, his duties are confined principally to an inspection of the station-houses, the uniforms and equipment of the members of the force, and the record books required to be kept at the station-houses. Where the inspector is a district commander, he has, in addition, the duty of preserving the peace in his district, of supervising the officers and men attached to the precincts under his command, of investigating all complaints concerning police conditions in his district received at the central office, and of preparing and forwarding routine reports to the chief. From this summary of the duties of American police inspectors we can easily see that they are not true inspectors at all, but merely supervising officers.

This want of inspectors, possessing the education, experience, and intelligence requisite for a careful study of the problems of police administration, is undoubtedly one of the causes of the inefficiency of some of our American police departments. It is true that sometimes an energetic non-professional head of department personally performs very valuable inspection service, but such instances are extremely rare, since in many cases these

officials are quite content to perform merely their routine duties and in other cases their time is so fully occupied by routine matters that they have no time to inspect the work of the department.¹

Since the American police system is the direct descendant of the English system, it is not at all surprising that there is a striking similarity between the two systems. If we compare the organization of the English police with that of our own police, we shall find that, save for a difference in the terminology employed in designating the various officers, the two systems are almost the same. The non-professional head of the police department in London is a commissioner, who is assisted by three non-professional assistant commissioners, appointed like the commissioner himself by the Home Secretary. The commissioner is further assisted in the government of the police force by four professional chief constables, appointed by the Home Office on his recommendation. These chief constables, though professional officers, are not necessarily promoted from the next lower rank; the commissioner chooses the best available material. The city is divided into three districts and a chief constable is placed in charge of each district; the fourth chief constable having charge of the criminal investigation or detective department.

Each district is divided into divisions, which, though not quite similar to our American police precincts, may be compared to the precincts, since they are the most important administrative divisions of the London police organization. Each division is in charge of a superintendent, who is generally assisted by a chief inspector, an officer corresponding in rank to our American police lieutenant. Each division is further divided into sections, in charge of inspectors. The inspector is in charge of the section house and performs many duties similar to those of the American police captain; on the other hand, most

¹ *New York Police Manual*, 1908, Rules 38 and 39.



of the responsibilities of the American police captain are vested in the division superintendent, who is the officer next higher in rank. Sergeants, corresponding to our American roundsmen, see to it that the constables or patrolmen properly perform their duties.¹

Without describing the administrative organization of the London police in any greater detail, we shall now examine those characteristics of the English police system which differ materially from those of the American system, in so far as they relate to the selection and duties of the subordinate police officers. It should be remembered in this connection that the police systems of the other English cities are the same as that of London, excepting that the Metropolitan police force of London is the only English police force which is under the control of the central government, and that slight differences in organization are necessitated by the large area over which the London police has jurisdiction. The most striking fact, from the American point of view, is that promotions in the English police forces are made without regard to political considerations. As in America, appointments to all the higher professional positions in the police department, with the exception of the position of chief constable, are made by promotion from the next lower rank. In making such promotions the fitness of the candidate alone is considered. Personal or political influence is seldom brought to bear upon the appointing officer and, when employed, it disqualifies the candidate instead of increasing his chances of appointment. The payment of a money consideration to secure promotion is unheard of in England.

Candidates for promotion in England, as in America, are required to submit to an examination consisting of three parts,—a mental examination, a physical examination, and an administrative examination. The mental and physical examinations for promotion are far less

¹ *Instruction Book of London Police*, Division I, Sections 1 and 2.



elaborate than in America; the mental examination covers only English composition and arithmetic, and the physical examination merely requires the certificate of the chief police surgeon regarding the general soundness of the candidate's health. Moreover, these civil service examinations are merely pass examinations and not competitive tests, as in America. The administrative part of the promotion examination, which is undoubtedly the best test of the candidate's potential efficiency, is much more elaborate than in America. Seniority of service is duly considered in making all promotions, sometimes as a qualification and at other times as a disqualification.

The record of the candidate as a police officer is carefully examined, the written reports of his administrative superiors are obtained and given careful attention, and particular attention is given in this administrative examination to the candidate's "sick" record, showing the number of days lost by him because of physical inability to perform the duties of a police officer. No formal rating is given in this administrative examination as in America, nor is any formal rating given in the mental and physical examinations. After a candidate has passed the mental examination, the results of the physical and administrative examinations are used only for the information of the appointing officer. A careful study of these records by the commissioner enables him to select far more efficient men and less incompetent officers than the most conscientious police commissioner in the United States can ever hope to secure from our civil-service eligible lists. However carefully a competitive civil-service examination is conducted, it cannot satisfactorily measure the personal worth of the candidate. The English system of providing for a mental pass examination followed by the submission of the candidate's record, as a police officer, and of written estimates of his ability from the candidate's superiors

has very successfully solved the problem of police promotions.¹

Two other functions of the subordinate London police officers should be briefly mentioned at this point,—the power of discipline and the duty of inspection. In America, the subordinate police officers have no disciplinary power over the men under their command; they can only prefer charges against them, and these charges are then heard by the police commissioner or chief. In England, on the other hand, both the chief constables and the superintendents have the power of punishing constables for dereliction of duty, by imposing fines, reducing the rate of pay, or stopping their fortnightly leave, subject in every case to the right of the commissioner to review such punishment and the further right of the constable to appeal his case to the commissioner. Since the efficiency of any punishment varies directly according to the swiftness with which it is inflicted, it is apparent that the English system, whereby the subordinate police officers have the power promptly to apply disciplinary measures, is strongly to be recommended.²

We have seen also that in America there are few police inspectors who perform much inspection duty. In England, on the other hand, this important function of the inspector is by no means neglected. There are, in London, patrol inspectors to look after all the police officers of the rank of constable and sergeant, divisional inspectors to look after the police officers of the entire division, and chief inspectors, who, when not acting as superintendents during the temporary absence of those officers, must also go out on the street to perform inspection duty. The general efficiency of the London police is undoubtedly due, to a large extent, to this excellent inspection system. Every officer and constable is kept from shirking his duties and remains active and alert,

¹ *Instruction Book of London Police*, Division I, Section 4.

² *Ibid.*, Section 2, Par. 3 and 11.

because of the knowledge that he will be visited at irregular but frequent intervals by an inspector and, similarly, every inspector performs his duties conscientiously, because he must at all times be in a position to give a satisfactory account of his own performance of duty, whenever called upon by a superior inspector. In the cities of England in which the police force is under the control of the municipalities, we have in addition to the municipal police inspectors, whose function it is to see that the constables perform their duties, the inspectors of the Home Office of the central government, who inquire into the general efficiency of the police administration of the municipality and refuse to grant state aid to those municipalities whose police organizations are inefficient.

CHAPTER III

SELECTION OF PATROLMEN

“Quod pulcherrimum, idem tutissimum est”

SECTION I. EXAMINATIONS

Appointment without Examination—Not a Success—Civil Service Reform—Kinds of Examination—Mental Examination—Eligibility — Scope — Preparation — Cramming — Conduct of Examination—Corrupt Practices—In the Toilet Room—Physical Examination—Family History—Personal History—Anthropometrical Measurements—Effect of Training—Strength Tests—Medical Examination—How Seventy-five American Cities Choose their Patrolmen.

POLICE officers were originally appointed by the head of the department without being required to submit to any formal examination. Being himself a police expert, the chief could, by inspecting a candidate for appointment and by inquiring into his antecedents, readily make up his mind whether he possessed the qualifications requisite for the making of a good police officer. This was the sensible and rational method of making appointments. It is the method employed almost exclusively by the largest commercial organizations. A retail dry goods store about to employ a salesman does not examine him to ascertain whether he can solve arithmetical problems in “gain and loss,” nor whether he can write an essay on the manufacture of silk; the store manager, who has charge of the engaging of help, looks the man over critically, asks him a few oral questions to test his general intelligence,

and asks him for references. The persons to whom references are made are communicated with to ascertain the candidate's character, and, if the replies received are satisfactory, the man is employed. At any time when his work is unsatisfactory he is discharged, after being duly warned. This method has also been tried in selecting public servants but, although it works very well in private life, it has not been a success in public life. The principal cause of its failure has been the constant and unremitting influence of the professional politician in the administration of the government. Even an inefficient chief of police could, and undoubtedly would, select the most capable men available for the position of patrolman. If influenced by no higher motives than self-interest, he would be led in this way to select only efficient men, because every inefficient patrolman injures his own reputation. But few chiefs of police or other appointing officers under the present American conditions, however straightforward, honest, and resolute, can hope to be permitted to use their best business judgment in selecting their subordinates.

However desirable it may be to have the public business conducted as nearly as possible in the manner which has made Americans so phenomenally successful in the administration of gigantic private organizations, it is at the present day almost an absolute impossibility to accomplish such a result. Most of the officers of our American cities are elected by the people, and every one who has studied American political conditions knows that, in the majority of cases, the American citizens vote for a political party rather than for a candidate. This statement is at times subject to some very important exceptions, but, as the statement of a general rule, it will be found to be true. Accordingly, every aspirant for an elective office must give far more attention to the subject of his nomination than to the subject of his election; the nomination by a certain political party carries with it, at least in a majority of cases, the certainty of election or the

probability of defeat. Nominations are practically under the control of the great political parties, and these parties are under the domination of political leaders. There is a political leader for the whole city and a leader for each political subdivision of the city. The same condition of affairs obtains, though possibly to a slightly lesser extent, in our State and national politics.

To secure a nomination to office the candidate must, in the first place, see the political leader having jurisdiction over that particular nomination and persuade the leader, in whatever way he can, to procure the nomination for him. Some political leaders are openly corrupt and, frankly stating that they are not in politics for pleasure, ask for a money payment for their private use. By far the greater number of political leaders, however, ask the candidate for nomination to make a contribution to the campaign fund of the party over which they have control and for which they never render an accounting. In many cases, too, the leader will promise the nomination to a man in consideration for the candidate's promise to give the leader an opportunity to recommend to him a certain number of men to fill positions, the incumbents of which the candidate, if elected, will have the power of appointing.

But whether such a compact be actually entered into between the leader and the candidate is immaterial; perfectly natural gratitude felt by an upright man for the really painstaking efforts exerted by the leader to secure his election or appointment will have a somewhat similar effect upon the officer.¹ In this way and in others, which we have not the time to enumerate, the political leaders can very largely control the selection of subordinates by elected officers and by their appointees. Men who require the assistance of a political leader to secure employment are never the most efficient members of the community, and business attended to by such appointees is not always well attended to. The remedy for this evil which is at

¹ *Cleveland Citizens' Bulletin*, iii, No. 46, 1.

present being tried in the United States is the system of civil-service examinations.

Civil-service reform, the purpose of which was to remedy the principal evils resulting from the fact that with the growth of party government partisan rather than administrative considerations influenced the action of the appointing officers in a majority of cases, may be said to have begun in the United States in 1853, when Congress attempted to prevent the appointment of absolutely incapable persons by providing that all applicants for appointment in the clerical service at Washington be compelled to pass an examination conducted by the various heads of departments. This examination, which was a pass examination as distinguished from a competitive examination, was not a very successful system when put into operation, but no advance was made by legislation until 1870, when, during the administration of President Grant and upon his recommendation, the President was authorized to prescribe such regulations for the admission of persons into the civil service of the United States as would best promote its efficiency and ascertain the fitness of each applicant in respect to age, health, character, knowledge, and ability for the branch of the service which he sought to enter.

The President appointed a board of commissioners to conduct competitive examinations and, although the system was eminently successful from an administrative point of view, it met with considerable opposition in Congress and was abolished in 1874 by the failure of Congress to make the necessary appropriations to carry on the work of the commission. In 1883, the system of competitive civil-service examinations in the United States service was re-established and extended, and it has since that year become a permanent feature of American public administration. As soon as its beneficent effects were recognized it was adopted also by the commonwealth and by the municipal governments, Massachusetts and New York

being the first States to adopt it, while Brooklyn, which established civil-service examinations during the administration of Mayor Seth Low, was the first city to follow in the same footsteps.¹

In the present monograph we are interested only in the development of municipal civil-service reform and, more particularly, the civil-service examinations to which candidates for appointment as police patrolmen are subjected. In the historical development of municipal civil-service examinations the pass or qualifying examination, was first introduced. These qualifying examinations were based upon the principle that if a man is simply worthy of a place his superior should be at liberty to appoint him, even though there be better men seeking the place. Some reformers at that time even seriously contended that public places were gratuities to be distributed fairly and that justice required that better men seeking employment should sometimes be excluded in order that inferior men might be appointed.² Inevitably, however, the pass or qualifying examination, whose motto was *detur digno* and which furnished but a very insignificant check upon appointments influenced primarily by political considerations, fell into decay and was succeeded by a system of competition between a limited number of persons selected by the appointing officer. This is a compromise system, which is a slight advance, since it proceeds upon the theory that admission to even a possibility of appointment ought to flow from the personal worth of the candidate as well as the personal favor of the superior. Its motto is *detur digniori*.

The open competitive system, which is at the present day the system of civil-service examination employed uniformly in almost every city of the United States whose policemen are selected on the basis of a civil-service examination, has the still nobler motto of *detur dignissimo*. It assumes that, since the public service does the work of the people, it is to

¹ Goodnow, *Comparative Administrative Law*, ii, 33.

² *Westminster Review*, vii, new series, 450.

exist exclusively for the benefit of the people, who are entitled to demand of their servants the best talent and the highest character which they can procure. And furthermore, that if there be such a thing as a right to public employment that right belongs first to the most worthy.¹

Applicants for examination for the position of policeman are required to fill out a formal application in their own handwriting on blanks provided for the purpose. These blanks are furnished to applicants without charge upon personal application at the office of the civil-service commission on specified days. Here at the very threshold of the civil-service examination the professional politician is able to exert his baneful influence. Many candidates are either unable or too ignorant to apply to the civil-service commission at the proper time for an application blank, and these generally secure the blank from their district leaders at the clubhouse. Such applicants receive an erroneous impression that the district leader who can supply them with a blank at his residence or clubhouse can also influence the probability of their appointment, and thus the way is opened for that systematic blackmail which is levied to a greater or lesser extent upon candidates for the position of patrolman in almost every city of the United States. The application blanks in different cities vary slightly, but the blanks in most cities are patterned after the New York blank.

The candidate is first asked his age. Owing to the fact that the ideal policeman must be a healthy young man who has arrived at the age of discretion and the further fact that policemen are quite generally pensioned when they reach a certain age or become physically unable to perform the duties of an officer, candidates are usually not accepted unless they are more than twenty-one and less than thirty years of age. This formal age requirement is, however, constantly being evaded by applicants who state their age falsely. In so far as is practicable, the civil-

¹ Shepard, *The Competitive Test*, 7.

service commission endeavors to verify the age of applicants, at least in cases where a reasonable doubt as to the truthfulness of the age stated in the application paper is raised by the medical examiner, but such verification is frequently a matter of considerable difficulty. In the United States, official registration of vital statistics exists, outside of the largest cities, only in half a dozen States, and the time required to communicate with the police authorities of foreign countries, if the applicant was born abroad, is generally so great as to impede the examination machinery considerably. In some cities the applicant is in such cases required to file an affidavit of the date of his birth, but as will readily be seen an applicant who intentionally misstates his age on his application blank will generally have no scruples about committing perjury to accomplish his purpose.

The nationality of the applicant is inquired into, because only citizens of the United States can become policemen. If the applicant claims citizenship by naturalization the judicial record of his naturalization is sometimes examined. Inquiries as to the applicant's conjugal condition and the size of his family are made, not only for the incidental light which they throw on his character but also because they furnish documentary evidence in the applicant's own handwriting which frequently proves useful later in the official life of the policeman. The next questions on the application blank refer directly to the applicant's character. He is asked whether he has ever been arrested and whether he has ever been convicted of felony; he is asked what his present occupation is, what his occupation has been for the past five years, and whether he has ever had any experience as policeman or fireman. These questions are generally answered truthfully, since incorrect statements can be easily discovered by the examiners. If the applicant has been convicted of felony or has been without honest employment for several years his application is rejected.

The applicant is further asked whether he has ever been

TABLE 2. HOW SEVENTY-FIVE AMERICAN CITIES CHOOSE THEIR PATROLMEN

CITIES.	AUTHORITY.				CHARACTER.				COMPETITIVE.			AGE.			
	Police Surgeon or City Physician.	Civil Service Board.	Police Board.	Not Specified.	Physical & Mental.	Physical Only.	No Examination.	Not Specified.	Not Competitive.	Competitive.		Minimum Age.	Maximum Age.	No Age Limit.	Not Specified.
1. Albany, N. Y.					X					X		21	40		
2. Baltimore, Md.		X			X					X		21	40		
3. Binghamton, N. Y.		X			X					X		21	35		
4. Bridgeport, Conn.		X			X	X			X			25	35		
5. Buffalo, N. Y.					X							24	33		
6. Cambridge, Mass.					X							22	40		
7. Camden, N. J.					X							21	55		
8. Charleston, S. C.					X							21	40		
9. Chattanooga, Tenn.	X											25	45		
10. Chicago, Ill.					X							21	35		
11. Cincinnati, O.					X							21	32		
12. Cleveland, O.		X			X							22	33		
13. Cohoes, N. Y.		X			X							21	40		
14. Columbus, O.					X							22	35		
15. Covington, Ky.					X							21	45		
16. Dallas, Tex.									X					X	
17. Davenport, Ia.														X	
18. Dayton, O.															
19. Denver, Colo.		X			X					X		22	35		
20. Des Moines, Ia.					X					X		25	40		
21. Detroit, Mich.		X			X					X		24	40		
22. Duluth, Minn.		X										23	30		
23. Elizabeth, N. J.									X			21	30		
24. Elmira, N. Y.					X					X		21	35		
25. Erie, Pa.					X									X	
26. Fall River, Mass.					X							22	40		
27. Fort Wayne, Ind.	X				X				X			21	35		
28. Grand Rapids, Mich.					X							21	35		
29. Harrisburg, Pa.									X					X	
30. Hartford, Conn.					X										
31. Haverhill, Mass.		X							X			21	30		
32. Holyoke, Mass.		X			X							21	40		

	3	21	1	50	33	19	9	14	Minimum			Maximum			21	30	25	55	9	7
35. Kansas City, Mo.																				
36. Lawrence, Mass.																				
37. Lowell, Mass.																				
38. Lynn, Mass.																				
39. Memphis, Tenn.																				
40. Milwaukee, Wis.																				
41. Minneapolis, Minn.																				
42. Mobile, Ala.																				
43. Nashville, Tenn.																				
44. Newark, N. J.																				
45. New Bedford, Mass.																				
46. New Orleans, La.																				
47. Newport, R. I.																				
48. Newton, Mass.																				
49. Paterson, N. J.																				
50. Peoria, Ill.																				
51. Pittsburg, Pa.																				
52. Portland, Me.																				
53. Portland, Ore.																				
54. Providence, R. I.																				
55. Richmond, Va.																				
56. Saginaw, Mich.																				
57. St. Joseph, Mo.																				
58. St. Louis, Mo.																				
59. St. Paul, Minn.																				
60. San Diego, Cal.																				
61. Savannah, Ga.																				
62. Schenectady, N. Y.																				
63. Scranton, Pa.																				
64. Seattle, Wash.																				
65. Somerville, Mass.																				
66. Springfield, Ill.																				
67. Springfield, O.																				
68. Syracuse, N. Y.																				
69. Tacoma, Wash.																				
70. Toledo, O.																				
71. Topeka, Kan.																				
72. Troy, N. Y.																				
73. Williamsport, Pa.																				
74. Wilmington, Del.																				
75. Yonkers, N. Y.																				
Totals.....																				

in the Army or Navy of the United States, and if so, for evidence of his honorable discharge, because under the laws of many States honorably discharged veterans of the Civil War or the Spanish War are entitled to certain preferences in the civil service. The last question on most blanks asks whether the applicant has paid any money or other consideration to influence his appointment. The value of this question is extremely doubtful. Those who make such payments seldom confess; the deterrent effect of the question is slight; while it may easily suggest to an ignorant applicant who has been asked for such a contribution, that the payment of such a consideration may increase the chances of his early appointment. The entire application blank is generally in the form of an affidavit and must be sworn to before a notary.¹

The mental examination to which applicants for the position of police patrolman are subjected is thoroughly practical. This does not mean that the examination is confined exclusively to testing the candidate's knowledge of the routine duties of the policeman; the purpose of the examination is rather to find out whether the candidate has such mental qualifications that he will be likely to do his work efficiently after having learned his duties by actual experience. In almost every city in the United States the applicant is given a number of arithmetical problems to solve. The duties of the policeman do not require him to have much knowledge of arithmetic, but the arithmetical test is very convenient. It shows to the examiner better than any other part of the mental examination whether the candidate is careful and possesses common sense; the problems are such as require for their solution careful thinking rather than technical knowledge of elementary mathematics. Then, too, the paper in arithmetic admits of marking on a uniform scale more easily than the other question papers.

¹ *Rules and Regulations*, New York Municipal Civil Service Commission, Rule 8.

The second part of the mental examination generally consists of a paper of questions on city information. This paper combines the two elements of an ideal civil-service examination,—it tests the candidate's general mental equipment and powers of observation and at the same time determines whether he possesses certain information which is of very practical value to him in the discharge of his police duties. The questions on city information include inquiries regarding the location of streets and public buildings, the general class of people found in certain sections of the city, the means of communication between different points, etc.

Two other tests which frequently form part of the mental examination are the written report and the questions on the rules and regulations. The written report is certainly a very valuable part of the examination, since it not only tests the candidate's command of the English language and his power to think but is also intimately related to his duties as a police officer. It generally consists of requiring the candidate to write a report to a superior officer, concerning a given police occurrence, such as an arrest or a fire. The questions on the rules and regulations of the police department are of more doubtful value. The candidate generally memorizes the rules hastily before the examination and forgets them soon after. As a means of insuring that the candidate will at least gain a superficial knowledge of the rules by which he will be governed after his appointment, it may have some slight value, but superficial knowledge is never of any great value. A memory test is also sometimes given to the candidates and this test consists of the reproduction in writing of the substance of a brief police order read to the men.

It is a well known principle of educational administration, that whenever a need for any particular kind of training is felt in the community this want is soon supplied by the establishment of an appropriate school. We are, therefore, not at all surprised to find that the introduction of

civil-service examinations was soon followed by the establishment of civil-service schools. These schools have a perfectly legitimate place in our educational and industrial organization. Men who have been out of school for five or ten years have forgotten much, even though not all, of the subjects which they studied at school. If the knowledge which they gained at school was thoroughly acquired, they could probably pass a civil-service examination with a low percentage; if they did not take any serious interest in their school work, they could not pass a civil-service examination at all after the lapse of five or ten years.

In enabling men who acquired the necessary knowledge at school but who have forgotten what they have learned, to refresh their memory and prepare themselves for the educational tests of the police examination, the civil-service preparatory schools not only perform a perfectly legitimate but even a highly praiseworthy service. Such preparation enables the competent man to do himself justice in the competitive examination and by insuring the attainment of a high percentage increases the probability of his early appointment. Nor are there any injurious consequences attendant upon a preparation for examination which consists simply of the systematic review of knowledge previously carefully studied; such preparation merely makes more certain the probability of the best qualified candidates passing the examination with the highest percentages.

The civil-service preparatory schools lay themselves open to just criticism only when they attempt to prepare, by a few weeks of schooling, men who have never enjoyed the benefits of a proper elementary education. This is the process which may with propriety be called "cramming." But even cramming for the police examinations is not as dangerous as some would have us suppose. The candidate who has not enjoyed at least a moderately complete schooling in his boyhood and who relies entirely upon cramming to pull him through the examination will generally

be unsuccessful. The examination is too practical to permit of successful cramming, which is useful mainly in technical examinations. Moreover, if a candidate can answer the simple questions of the mental tests because of the cramming which he has done, this is not by any means a circumstance which shows that he is poorly qualified for the position which he seeks. We need men possessing common sense on the police force; the qualification of prime importance is therefore not scholarship. The man who can pass the examination through the assistance gained by cramming may, and generally does, possess more common sense than the man who has gained his knowledge from long-continued and close application to his books.

In every examination there is a tendency on the part of some of the candidates to use dishonest methods to secure a passing mark or a high percentage. In a competitive examination, such as nearly all police examinations in the United States are, this tendency is naturally increased. It therefore depends entirely upon the honesty and efficiency of the examining staff whether these examinations are to be an honest test, a test in which secret influences will be permitted to work quietly, or an open farce. It should be stated here that, however corrupt the police department of a given city may be, there has never been a case of which there is any historical record, where the civil-service examining board has been openly corrupt. On the contrary, in the large majority of cases these examiners are absolutely honest and efficient and, in the few cases in which they do not come up to this ideal, their shortcoming has uniformly been due to an error in human judgment rather than to corruption.

We shall consider briefly the safeguards employed to prevent corrupt practices in the conduct of the examinations. Upon the theory that the police department itself is unable to conduct these examinations properly, either from lack of ability or from other causes, the examination machinery is quite generally placed under the control of

a civil-service commission entirely distinct from the police department. The civil-service commissioners are usually men of the highest standing in the community and frequently serve without compensation. The actual conduct of the examinations is under the direct supervision of a chief examiner, who is assisted by a corps of assistants. The chief examiner is generally a college graduate and is always a trained specialist in his work.

The examining staff being accordingly incorruptible, let us examine the safeguards employed to prevent cheating among the candidates. These men are seated at small individual tables with an open aisle on either side; all books and papers must be left at home; whispering of any kind and for any reason is cause for the rejection of the applicant; unnecessary conversation with the examiners is strictly forbidden, and no candidate is permitted to enter the room after any candidate has left the room. These are the ordinary precautions taken in the conduct of almost every mental examination held for any purpose in the United States and are as successful as they are necessary. Three precautions of special importance in the police examinations deserve mention, because it is through the successful violation of these examination rules that candidates sometimes succeed in committing corrupt practices. We refer to the leakage of examination questions, dishonesty in the toilet room, and the personation of candidates.

The phrase "leakage of examination questions" is a technical phrase used to denote the condition of affairs when a candidate is enabled to secure the examination questions before he reaches the examination room. Rumors of the leakage of police examination questions are of frequent occurrence but, in view of the elaborate precautions taken to prevent such leakage and the further fact that it has never been conclusively proved that a leak has occurred, we must admit that there is at least a reasonable doubt whether such leakage occurs at all. The examination questions are prepared by the chief examiner personally

on the day before the examination and are then locked up in his office safe. On the morning of the examination, one or two hours before the time set for the commencement thereof, the questions are given to the chief examiner's confidential stenographer, who cuts the stencil on the typewriter and has the office boy prepare the mimeographed copies in her presence. The copies are then taken directly to the examination room.

From this brief survey of the system employed in the preparation of police examination questions it would appear, *prima facie*, that a leak could occur only through the personal corruption of the chief examiner. This, however, is not the case. Carelessness on the part of the chief examiner may easily give a dishonest employee in his office an opportunity to examine and copy the questions while they are lying on his desk, and his stenographer certainly has this opportunity, if she has the inclination to avail herself of it. The civil-service commission quite generally sends a notice to all candidates, warning them that all who offer to sell them the examination questions in advance of the day of the examination are imposters and offering a substantial reward for information leading to their conviction. These warnings and offers are disregarded by the candidates. On the whole it must frankly be stated that most of the civil-service commissions who conduct police examinations have not yet satisfactorily proved that the leakage of examination questions is an impossibility.¹ The discovery of the source of such leakage is a difficult problem, requiring the shrewdest detective work, but the fact, that in the examinations conducted by the United States Civil Service Commission such leakage, or even rumors of such leakage, is unheard of, makes it apparent that an efficient administration can get at the source of this evil and check it.

In checking the personation of candidates at examinations the civil-service commissions have been more

¹ See Chapter X *infra*.

successful. To be sure that the candidate himself takes the examination for which he desires credit, he is required to fill out at the beginning of the examination a preliminary sheet giving certain information about himself which he has already given on his official application blank. Both the handwriting and the answers on the preliminary sheet are compared with the official application blank, and attempts at personation are thus quickly detected. Most of the dishonesty which is successfully practised at police examinations is confined to the toilet rooms, and a peculiar prudishness keeps the examiners from enforcing the regulations which are intended to prevent it. The rules of the examining board either prescribe that the examiners refuse permission to leave the room to any candidate until he has completed the question paper on which he is working, or they require that the examiners accompany candidates when they leave the room, to prevent their cheating.

Examiners neglect to enforce both of these regulations, and the candidates are quick to take advantage of this opportunity. An examiner does not like to refuse the request of a candidate who asks permission to go to the toilet, fearing that he may be doing the man an injustice, and few examiners will degrade themselves by accompanying the candidate to the toilet. The result is that candidates regularly refresh their memory by consulting notes in the toilet room and even assist each other by discussing difficult questions. The only remedy is to confiscate the papers of any candidate leaving the room for any cause. A man who is unable either because of irregular habits or physical weakness to sit still in a room for two or three hours without going to the toilet is not physically competent to discharge the duties of a patrolman. And it would seem that the dishonesty now practised at police examinations can be checked in no other way.

It is certainly not necessary, and some have even maintained that it is not desirable that police patrolmen be men

of large intellectual ability. Whether an educated man is disqualified by reason of his education from becoming a thoroughly efficient patrolman may well be questioned, but any consideration of this question would be largely academic, since the undesirable character of police work and the comparatively small salary paid to policemen make it extremely unlikely that, for the present at least, any considerable number of men who have enjoyed even a secondary school education will turn to the police business for their life-work. A police patrolman who has an alert mind is undoubtedly better qualified to perform police duties efficiently than are men whose powers of quick comprehension have been dulled by long mental training resulting in a more highly developed power of reasoning. But the most important asset of the ideal policeman is unquestionably his physical constitution and condition.

Although the policeman's life is a lazy life, inasmuch as much of his time is spent in doing nothing, it is, undoubtedly, very arduous, since the exposure to the inclemency of the elements and the liability to long hours of service in times of emergency constitute a severe strain upon the physical resources of the policeman. Under the mere routine duties of a policeman's life the weakling quickly breaks down, and an individual who has any predisposition to constitutional or hereditary disease soon becomes a useless or inefficient member of the police force. None but the most robust can stand the long hours and hard life incident to emergency service, and even the most robust sometimes break down under these extraordinary conditions. These circumstances render it absolutely essential that all applicants for appointment as policemen be subjected to a most searching physical examination, which will not only protect the police force from the danger arising from the admission of physically weak men who will be unable to stand the hard work of the police service, but will also protect the police pension fund, which is supported in part by the policemen themselves, and in the benefits of which

every regularly appointed policeman is entitled to share, when he becomes physically incapable of performing the duties of a police officer.

It is not practicable to describe in this monograph the various systems of physical examination at present in use in the municipal police departments in the United States. We shall describe, therefore, the ideal physical examination toward which all of these examinations are consciously or unconsciously tending. The ideal physical examination may be divided into five parts,—the family history, the personal history, the anthropometric measurements, the strength tests, and the medical examination. The inquiry into the applicant's family history is based upon the biological principles which were first discovered by Sir Francis Galton the eminent British scientist. Sir Francis Galton discovered that a human being is the sum total of an original nature acted upon by pre-natal influences and post-natal environment, and that of these two influences which determine the physical and mental condition of a human being the pre-natal influences are of much more importance than the post-natal environment.

Furthermore, although we cannot from a consideration of these pre-natal influences determine absolutely the condition of a given individual, we are assisted in forming our estimate of the individual's physical efficiency by applying the rule of scientific variability. To take a concrete example, if we know that an applicant's father died of pulmonary tuberculosis we cannot infer from this fact that the applicant will also die of consumption, but we are justified in concluding that the applicant is much more likely to contract consumption than one in whose family history there is no trace of tuberculosis, since Galton has found that the influence of the parent is twice as great as the influence of the race. The questions asked by the examining authority with a view to ascertaining the applicant's family history are generally two in number. The applicant is first asked to give concerning his grand-

parents, parents, brothers, and sisters, their age, general health, and cause of death, if dead. The applicant is then further asked specifically whether any of his blood relatives have committed suicide or suffered from consumption, insanity, cancer, or any hereditary disease. It is apparent that both of these inquiries aim to discover any hereditary predisposition to diseases which might prevent the applicant from discharging efficiently the duties of a policeman.¹

The questions asked of the applicant with a view to ascertaining his personal history are more numerous than those relating to his family history, since the personal history is more important than the family history. The applicant is first asked his age, the place and date of his birth, whether married or single, and his present and former occupations. A long list of diseases and symptoms of diseases is next submitted to the applicant, and he is asked to check off those ailments which he has had and those from which he is suffering at present. Full particulars are required concerning the duration, severity, and result of each disease which the applicant has had, and the applicant is further asked whether he has any predisposition to such diseases as phthisis, scrofula, rheumatism, cancer, or insanity.

The examiner also inquires into the applicant's habits with regard to stimulants, tobacco, and narcotics, and in an endeavor to make use of the results of any previous physical examination the benefit of which the applicant may have enjoyed, he asks him whether he has ever applied for a pension, a sick-benefit, life insurance, or military service, and if so, with what result. And finally the applicant is asked whether he has recently been successfully vaccinated. In addition to the very valuable hints as to the applicant's character which this investigation into his personal history gives the examiner, it is also in many respects and particularly in cases in which the examiner is not a very well educated physician, an excellent test

¹ Thorndike, *Educational Psychology*, chap. 5 and 6.

of the applicant's potential efficiency. An applicant who has had no serious ailment, has had steady employment, uses neither stimulants nor tobacco to excess, is married, and has no predisposition to constitutional disease is certainly a valuable recruit for the police force, and if any of these qualifications are wanting his desirability is decreased *pro tanto*.

To the trained anthropometrist the measurements of the human body and the various anthropometrical indices deduced therefrom furnish the best obtainable picture of the physical qualifications of a candidate for appointment. The number of professional anthropometrists in the country is, however, small and most of these find positions in our higher educational institutions. The work of conducting physical examinations is accordingly performed quite generally by physicians who lack the highly specialized knowledge of the anthropometrist and since the remuneration of the physical examiner is in most cases absurdly small and the work of conducting these examinations uninteresting to all except those who are interested in scientific investigations, the actual conduct of these examinations frequently falls into the hands of physicians who for one reason or another are unable to earn a livelihood in regular medical practice.

These men take only a minimum number of measurements, generally the weight, the height, and the girth of chest expanded and contracted. Maximum and minimum requirements for each of these measurements are generally fixed by the regulations and those who are unable to meet the minimum requirement, as well as those who exceed the maximum requirement, are peremptorily rejected. For this part of the examination the candidate is required to strip, and this circumstance, together with the fact that the medical examiners are usually scrupulously honest, makes it impossible for the candidate to attempt any corrupt practices at the physical examination.

Frequently, however, men who are near the maximum

or the minimum requirement for height can increase their height one or two inches by staying in bed the entire day previous to the day of the examination, or they can reduce their height one or two inches by walking very much on the preceding day and not going to bed at all. Similarly, a man may by systematic training evade the maximum or the minimum requirement for weight and the same is true of the requirement for girth of chest. Such practices, though illegitimate, can hardly be called corrupt. No particular injury to the police service occurs from these practices except in one or possibly two of the instances mentioned and in any case it would be very difficult if not impossible to prevent them entirely.

An inch or two in the stature gained or lost in the manner which we have described is made up again by a restoration to the normal stature in the course of a few days, and a candidate afflicted with the taint of obesity who has reduced his weight by training before the examination will soon take on flesh again when he begins the comparatively inactive routine of the policeman's life. It is submitted, however, that the proper remedy for this evil lies in compelling the policemen to attend the gymnasium as a part of their police duties and in removing from the police force any man showing a marked taint of obesity.¹

A man may be perfectly healthy and yet physically unfit for the performance of efficient police duty. This is due to the fact that a man may be undeveloped although he is healthy. The duties of a policeman require him to be able to capture and overcome criminals and this requires a sound development of certain muscles of the body. It is the function of the strength tests to measure the strength of the candidate,—to test his muscle function as distinguished from his muscle mass. The strength tests usually employed are, in the order of their relative importance, the strength of back, legs, upper arms, forearm, abdominal muscles, agility, and the less important tests of the traction pull,

¹ *Report, Cincinnati Police Dept., 1904, p. 28.*

pectorals and adductors. To each of these tests is assigned a maximum grade, differing for each test according to the relative importance of the test, and the applicant is assigned a mark on the basis of his performance of the test.

It is unnecessary to describe these strength tests in further detail since such a description would have to be technical. It may be stated, however, in passing that they are aimed to test the development of those muscles which are used most frequently by the policeman in the discharge of his duty,—the muscles used in running to overtake a criminal and those used in boxing and wrestling to overcome his resistance,—that they are so simple as to require but a short time in their application and so easily understood that no applicant with intelligence sufficient to entitle him to appointment on the police force can possibly fail to understand what he is expected to do. Although these strength tests are not yet generally employed in the United States it is the present tendency to extend their use because of their undoubted value.¹

The medical examination of policemen, which is very simple and elementary, is based upon the principle that to be efficient a man must have a good circulatory, a good respiratory, and a good digestive function. To test the circulatory function the heart action is examined for irregularities and abnormalities; the respiratory tract is examined for obstructions and for indications of disease, and the examination of the digestive function is ordinarily confined to an examination of the teeth to determine whether the applicant has sufficient teeth in good condition for the proper mastication of his food. The applicant's sight, hearing and color perception are also generally examined. Moreover, the physician examines the applicant carefully for any deformity of the feet which might interfere with walking, as well as for any evidence that the applicant has or has had syphilis. Although simple, the medical examination is rigorous. The number of observations taken is small but

¹ *Report, Massachusetts Civil Service Commission, 1904, p. 146.*



the slightest irregularity of the heart, the slightest deformity of the feet, or the slightest syphilitic taint is sufficient ground for the rejection of the candidate.

SECTION II. APPOINTMENT

Examination of Character—McAdoo's System—The Eligible List—Discretion of Appointing Officer—Its Necessity—Its Abuse—Power of Secretary—Payment of Money—Black-mail—The Remedy—Appeals—Their Abuse—Probation—Catechetical Instruction—Physical Training—Instruction on the Street—Tricks of the Trade—Statutes to be Disregarded.

Not only are the mental and physical qualifications of candidates for appointment carefully examined in the manner which we have described, but in addition careful inquiry is made into the character of these men. This inquiry is conducted in part by the civil-service commission and in part by the police department. The applicant is asked by the civil-service commission to state on his official application blank under oath what his occupation during each of the last five years has been, and whether he has ever been arrested, or convicted; an unsatisfactory answer to these questions is ground for the rejection of the candidate. In some cities, a list of the names, addresses, and occupations of the various candidates is printed in the newspapers so that any one having knowledge of the unsatisfactory moral character of any applicant may communicate that fact to the civil-service commission.

By these means the civil-service commission generally succeeds in eliminating candidates who have a criminal record. But a man may be of bad moral character without having a criminal record and the police department accordingly conducts an independent investigation into the moral character of each applicant for appointment. The name of the applicant is sent to the captain of the precinct in which the applicant resides, and the captain makes inquiries regarding his character among his neighbors and

friends, as well as among the policemen who patrol the post on which he resides.

This investigation by the police department sometimes results in the detection of an undesirable candidate for appointment; in a corrupt police department, however, it is more generally used as a means of extorting blackmail. The candidate whose character is unsatisfactory can then receive a favorable report only by giving the captain of the precinct a substantial consideration, while every candidate, whether his character be good or bad, must give the captain something in order to be passed by him.

To secure a system which would not only be absolutely honest and efficient, but also free from criticism, Commissioner William McAdoo of the New York Police Department established in 1904 a non-professional board to pass upon the character of applicants for promotion. This board was composed of men of the highest character, prominent in commercial or legal circles, and being not only non-professional but also serving without compensation, their action was such as to be above criticism. These men were able to employ in their examination of the character of the candidates for promotion the same methods which are employed by the man who engages help in a large commercial organization, and although their field of action and their powers were greatly restricted by the regulations of the civil-service commission, yet even in the narrow field of rejecting candidates of unfavorable character they accomplished much, by insuring that their decision would not be influenced either by politics, by professional police ethics, or by even baser considerations.

Candidates who in addition to fulfilling all the other requirements of the civil-service commission receive a passing mark both in the physical and in the mental examinations have their names placed upon the civil-service eligible list in the order in which the average of their marks in the physical and mental examinations entitles them. Honorably discharged veterans of the Civil War,

who have served either in the military or the naval branch of the service, are, in most American States, entitled to have their names placed at the head of the eligible list, if the mark which they receive on the examination is a passing mark. This preference which is given to veterans by statute, partly as a reward for their service to their country in its hour of need and partly in recognition of the fact that because of their old age or because of physical infirmities incurred during the war they might not be able to secure as high an average as younger men, has been uniformly upheld by the courts.¹ When the head of the police department desires to appoint new patrolmen to fill vacancies existing on the police force he asks the civil-service commission to certify a list of eligibles to him. In complying with his request the commission certifies from the head of the eligible list the names of three men for each existing vacancy.

The police commissioner is forbidden by law to appoint any man to the position of patrolman unless his name is certified to him by the civil-service commission and he is compelled to appoint these men in the order in which their names appear on the eligible list. But it is a fundamental principle of our public law, under prevailing constitutional provisions, that the power of appointment is a function involving the exercise of discretion and that this discretion may not be taken away from the appointing officer by civil-service legislation.² Accordingly, the head of the police department has the power in the exercise of his discretion to pass over any two of the three names certified to him for each existing vacancy. The civil-service rules further provide that when a man has been certified for appointment three times and has failed of appointment each time, his name shall not again be certified except at the special request of the appointing officer. Thus by omitting three times to appoint a man who has successfully met all the requirements for appointment as patrolman, a police com-

¹ Mechem, *Public Officers*, § 84.

² *People ex. rel. Balcom vs. Mosher*, 163 N. Y. 32.

missioner can practically defeat his chance of appointment. Is it any wonder that with such a system of appointment in force, each man on the eligible list bends every energy to secure influence to insure his early appointment?

In filling vacancies in the public service, which by law must be filled by the appointment of those who have passed a civil-service examination, it is generally desirable, even where it is not absolutely necessary, that the appointing officer be allowed some discretion in selecting his subordinates. The civil-service examination is in its very nature an impersonal test, the candidate being known to the examiner only by a number. Then, too, more emphasis is placed upon the inquiry into his mental and physical qualifications than into his moral character and antecedents. The highest administrative efficiency can be attained only where mutual good will and consensus of opinion exist between the administrative superior and his subordinate.

Some men may dislike to have a female stenographer in their office, others may prefer a man of their own creed, while still others may be able to see at once by intuition, upon interviewing a man, that he is untrustworthy, although it is practically impossible to secure legal evidence of his unsatisfactory character. Accordingly, where the subordinate works in the immediate presence of his superior or where he is after appointment not subject to any strict administrative discipline, it is highly desirable that the appointing officer be given discretion, within reasonable limitations, to select the eligible who in his opinion is best capable of discharging efficiently the duties of the position.

In view of the fact, however, that policemen do not discharge their duties in the immediate presence of the appointing officer, and in view of the further fact that they are after appointment subject to a most rigid military discipline, it becomes apparent that this discretion allowed to the appointing officer by law is more likely to become a serious abuse than it is likely to be of use. The actual condition of affairs at the present day in America is an

excellent illustration of this tendency. The heads of the police departments in America may be divided into three classes: The honest, the weak, and the corrupt. The corrupt class is the smallest. Public sentiment, though slowly aroused, is certain to ferret out the corrupt official and relegate him to private life. But, on the other hand, the number of thoroughly efficient heads of police departments is also not as large as it should be. The police commissioners are frequently political ward leaders; they are often men of small education; they are almost never men who intend to make police administration their life-work.

Most police commissioners in the United States belong to that class which we have designated the "weak." It is a characteristic of the weak executive in any office to spend most of his time in attending to routine matters which by statute or custom require his personal attention and to look to his private secretary for information and advice. Such a man devotes most of his time to signing his name to documents, and it is surprising what a large number of documents actually require by statute to be signed by the head of department personally.

The appointment of patrolmen is to such an officer simply an act requiring his signature and it is his custom to appoint every eligible against whom his secretary does not make any objection. The commissioner thus practically delegates the power of selecting patrolmen to his secretary, who frequently possesses neither the experience nor the education requisite for the exercise of this important power of selection. The secretary furthermore does not possess the official dignity which attaches to the office of police commissioner and, accordingly, men who would never dare to attempt to influence the commissioner's exercise of this important discretionary power by improper means do not hesitate to approach his secretary on this subject. The private secretary is like his administrative superior,—weak, rather than corrupt. It is seldom possible to induce such a man to favor the appointment of an

eligible for a valuable consideration, but he is generally quite willing to use his best endeavors to prevent the appointment of an eligible concerning whom he hears an unfavorable report. His purpose in acting in this way may be perfectly honest, but the fact that his action is summary and without calm, judicial inquiry and deliberation makes him an easy tool for those whose purpose is not only dishonest but actually criminal.

In the historical development of almost every municipal police department in the United States there was a time when every applicant for appointment or promotion on the police force had to pay a definite sum of money, either to the leader of the dominant political party or to the head of the police force, to secure his appointment or promotion. In some cities these fees were published openly so that there might be no overcharge in the levy of this blackmail.¹ But these criminal practices, though of common occurrence, are of comparatively short duration. The corrupt police official always enjoys a short tenure of office; yet, unfortunately, the mischief which he has done continues after his term of office is ended.

The corrupt chief police officer is frequently succeeded by a weak officer such as the one we have described above. This gives an opportunity to the professional blackmailer, who has absolutely no connection with the police department and sometimes no connection with the dominant political party, to engage in some profitable business transactions. His method of operation is generally as follows: He informs the applicant for appointment or promotion that if he will pay him a given sum of money he will get a certain political district leader to exert his influence to secure his appointment. This reference to the district leader is sometimes made with the latter's permission, more frequently the criminal blackmailer acts without the leader's knowledge or consent.

If the applicant refuses to pay the sum demanded of him,

¹ *Report of Lexow Committee*, v, 5380.

it is comparatively easy for the blackmailer to gain the ear of the weak commissioner's private secretary and by narrating to that official some scandal in the life of the applicant for appointment defeat his chances of appointment. Such a case furnishes a valuable argument to induce the other candidates to pay the sum demanded of them. When an applicant has paid money to such a blackmailer and is later appointed in due course he is so happy at his appointment that he gratefully believes that it is due entirely to the efforts of this criminal, although the blackmailer may have had absolutely nothing to do with the appointment, or at most merely refrained from spoiling the applicant's chances of appointment. When on the other hand the applicant is not appointed the blackmailer will say that his influential friend "went back on him," and he frequently returns the money paid in advance.

If the unsuccessful applicant was an applicant for promotion instead of an applicant for appointment, no money is returned by the blackmailer, since he knows that an applicant who is already a member of the uniformed force cannot prosecute him. Any attempt on his part to prosecute the blackmailer would inevitably result in his dismissal from the police force on a charge of conduct unbecoming an officer in attempting to influence his promotion by the payment of money. Just as the corrupt police commissioner when he retires, leaves behind him the tradition that the applicant who pays will receive an appointment, so the weak commissioner when he retires, leaves behind him in the police department the tradition that the applicant who does not pay will probably not receive an appointment.

This is undoubtedly a slight improvement, but the improvement is so slight that, if a strong and honest commissioner should now come into office, he would be unable to change this unsatisfactory condition of affairs. A strong and honest commissioner would see to it that the payment of money by an applicant could in no way influence his appointment and he would try to impress this upon the

minds of the applicants. But experience has shown that he could not prevent the applicants from paying this money, since the policemen know from experience that such payments are necessary to secure success. Only a succession of several police commissioners of undoubted ability and integrity will be able to change this deep-rooted tradition in the police department and incidentally end the career of a class of criminal blackmailers who have so far enjoyed an almost complete immunity from prosecution.

During the whole course of the civil-service examination the identity of the candidate is unrevealed. When the candidate appears for the mental examination he is required at the beginning of the examination to fill out a preliminary sheet on which his name and examination number as well as some other information which is useful in identifying him and checking attempts at personation are written. This sheet is enclosed in a sealed envelope on the outside of which only the candidate's examination number appears. This envelope is not opened until after all the candidate's papers have been finally graded, and the regulations provide for the summary rejection of any paper which contains the candidate's name or reveals his identity in any other way. Any possible collusion between the examiner and the candidate is thus prevented and, what is of even more importance, the system is so simple that every applicant can readily understand that payment of money cannot possibly avail him.

But the American people are so anxious to prevent even the barest possibility of injustice being done, that they frequently impair the efficiency of a system. Americans think that the privilege of taking an appeal from any official determination affecting their rights is a privilege, the denial of which amounts to a recognition of arbitrary official action. They know that every human agency is fallible and, to guard against the possibility of injustice

being done to a candidate by the accidental mistake of an examiner, the civil-service rules, in most cases, allow an unsuccessful candidate to appeal from the rating he has received.

This appeal is made after the identity of the candidate has been revealed, and the appeal is directed not to the professional non-political examining staff of the civil-service commission, but directly to the commission, which is generally a bi-partisan board. It is apparent at once that this system must, in the very nature of things, be subject to grave abuses; it opens the door not only to favoritism, since the examiner when he re-examines the papers knows the candidate's identity, but it also gives an undue advantage to the candidate who is able to bring political influence to bear upon the civil-service commission which passes upon his appeal. And wherever political influence is useful or is considered to be useful, the professional blackmailer reaps his harvest of illegitimate gain. In New York City, the abuses connected with this system of civil-service appeals became so pronounced that the commission abolished entirely the right of appeal.

The regulations in New York forbid any one but the candidate or his attorney and counselor-at-law from examining the candidate's examination papers; this aims to shut out the professional politician. If a candidate thinks his paper has been unjustly marked, he must address his application for the correction of the error made in marking it to the chief examiner, and not to the commission, and he must specify in his application the specific error made by the examiners in marking his paper. The chief examiner inspects this application and summarily rejects it unless it shows upon its face that it has probable merit. In the latter case he accepts it and refers it to the examiners who rated the papers for an explanation. Professional ethics prevent the examiners from admitting, as a general rule, any but

the most palpable errors in marking, so that this system is undoubtedly somewhat hard on the candidate. But the method employed in the original marking of the papers should not be lost sight of. Each paper is rated independently by two examiners and the marks given by these two examiners are averaged if their difference is not more than five per cent. while if their difference is greater, the examiners confer to adjust the matter. As such conferences between examiners are of infrequent occurrence, we must recognize the fact that the original ratings are very carefully and conscientiously made in accordance with an excellent marking system and the unlimited right of appeal is unnecessary as well as dangerous.

When a candidate finally receives an appointment after having successfully met all of the requirements preliminary thereto, he is appointed on probation. The probationary period in the United States averages six months; in Europe the period is somewhat longer. During this time the young police officer receives both theoretical and practical instruction. The theoretical instruction is given him in the school of instruction; the practical instruction he receives on the street. Officers are usually required to spend a portion of the day in the school of instruction and a portion of the night on the street. In some cities, however, all of the theoretical instruction in the school of instruction must be completed before the novice goes out on the street.

The school of instruction is under the charge of an experienced superior officer and the instruction is imparted almost exclusively by the catechetical method. The young men are ordered to commit to memory questions and answers relating to the primary duties and rights of the police officer. In almost every city of the United States in which the young policeman receives any theoretical intellectual training it is imparted by this method of question and answer. As a method of instruction

the catechetical method is open to severe criticism. It is a historic survival of an early system of education, unsatisfactory from a pedagogical standpoint in teaching children and much more objectionable in instructing adults.¹

That a person will permanently retain much information gained by the memorizing of questions and their answers is not seriously maintained by any educational specialist, while the intellectual training and discipline received by this method of instruction is so slight as to be negligible. When we consider that it is a characteristic tendency of modern educational theory not even to permit the mature university student to accept the carefully prepared treatises of experts, but to require him to gain his knowledge, in so far as may be practicable, by manual exercise in the laboratory or by the intellectual exercise which is obtained by the free discussion of teacher and student in the lecture room and the recitation room, it seems indeed strange that the mediæval catechetical method should so generally survive in the professional education of policemen.

The excuse which is generally offered,—that probationary police officers are not sufficiently intelligent to permit of being instructed by any other method,—is only partly true. It is doubtless true that their general education is insufficient to form the requisite foundation for systematic training in criminal jurisprudence, but a complete knowledge of criminal law is not one of the essential qualifications demanded of the young police officer. The principles of criminal law are exceedingly technical and it is quite unnecessary to burden the police recruit with such intellectual puzzles. He requires instruction merely in his own rights and duties and in the definition of the principal felonies and misdemeanors. There is little doubt that this instruction could be much better imparted by a free discussion of hypothetical

¹ Fitch, *Educational Aims and Methods*, 384.

cases than by the catechetical method at present so generally in use. The obstacle to the introduction of such a system is not the deficient general education of the new patrolman, but rather the want of good teachers.

In addition to this instruction in the duties of his position the young policeman is also quite generally taught first aid to the injured, the policeman's knowledge of which has saved so many lives on the streets of our busy cities in the interval of time which necessarily elapses before medical assistance can be summoned. The physical education of the police recruit is generally neglected in the school of instruction because of lack of suitable accommodations. Revolver practice is quite generally required of the young policemen, since not only the security of the community but also the safety of the policemen themselves so frequently depends upon their ability to use the revolver. But gymnastic exercises which would tend to increase the strength, agility, and muscular development of the policemen are frequently omitted because there are no suitable gymnasium facilities. Although it is true that the young policeman must be almost physically perfect in order to pass the physical examination which is one of the conditions preliminary to appointment, yet physical training in the school of instruction would be invaluable, not only to make certain that he continues in good physical condition, but also to train him physically for the duties of his profession.

The young policeman receives his practical instruction by going out on post with an experienced policeman who is expected to instruct him in the duties of his position. This amounts practically to an apprenticeship, although its duration is very short. The value of the instruction which the young policeman receives depends both upon the general moral tone of the police force and the character of his instructor. Even the least valuable instruction received in this way will be more valuable to the policeman in fitting him for the actual performance

of police duty than any amount of theoretical instruction.

Yet this method of instruction also has its shortcomings. In the first place there are some policemen who take no interest in instructing the probationer who is sent out on post with them; the number of these men is small, however, since the majority feel flattered when they are selected to "act as teacher." If for no other reason, most policemen like to have a probationer accompany them so that they will have somebody with whom they can converse during the long hours of the night. The young policeman sees the actual police conditions which he will have to face; he becomes acquainted with the street loafer and with the professional criminal and watches with interest the way in which the experienced officer deals with each. He learns by actual experience his duty in various emergencies,—a fight, a "drunk," a fire, a runaway.

But in addition to being instructed in his duties the young officer is also taught the secrets of the profession or tricks of the trade. These "tricks," as they are called, may be good, bad, or indifferent, according to the moral tone of the police force. Some of them are trivial, as, for example, whether the policeman's right hand or his left hand should be nearest the wall while he is patrolling. Others are exceedingly praiseworthy, as that, whatever other shortcomings he may have, he must never appear afraid under any circumstances, since cowardice will result in his ostracism by his comrades. Still others relate to that species of hazing which almost every organized body of Americans inflicts upon newcomers, as the custom which requires the probationer to do chores for the older members of the force.

But in many police forces where the general moral tone is low, particularly among the superior officers, the policeman initiates the young probationer into secrets of the profession which teach him to shirk his work. When a policeman first dons his uniform he has, as is

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quite natural, an exaggerated opinion of his importance and of his duties. It is his ambition to learn all the statutes and ordinances in order that he may not through ignorance fail to enforce a single one. In so far as it is both impracticable and impossible for the policeman to enforce all the laws on the statute books, from the most insignificant to the most important, the experienced officer performs a valuable service in pointing this out to the young probationer. Yet the ambition to enforce all the laws is a very desirable ideal for a policeman to have before him and when by his instruction the older policeman not only ridicules this ideal but actually instructs him to neglect the enforcement of some very important statutes, he seriously impairs the efficiency of the young patrolman.

In instructing the young officer to fail to enforce all the laws the experienced officer not only calls the young man's attention to the physical impossibility of enforcing all the minor municipal ordinances but he shows him that it is to his interest from a purely selfish point of view to neglect the enforcement of state statutes concerning graver crimes. Statutes relating to liquor selling, gambling, and vice are never to be enforced unless special instructions are received from the commanding officer; no special pains are to be taken to detect and apprehend offenders against the Federal laws, such as illicit distillers or counterfeiters; personal and political friends of the commanding officers are to be accorded, not only special privileges, but also special immunities,—these are some of the suggestions given by the experienced officer to his pupil.¹

This is undoubtedly the most serious defect in the practical education of policemen in America. Another defect deserving of mention is the fact that the practical education of the young policeman is confined exclusively to his duties while on patrol. Although his patrol duties

¹ Cosmopolitan, xxxix, 473.

are the most important of his official functions, it might be desirable to broaden his education by detailing him for a short time during his term of probation to the lower criminal courts, as is the custom in London, in order that he may gain some knowledge of the law of evidence and of criminal procedure, which will assist him in preparing a case properly for efficient prosecution in court.

CHAPTER IV

DUTIES OF POLICEMEN

"Simple Duty Hath no Place for Fear"

SECTION I. OFFICIAL DUTIES

Duty of Knowledge—In America—Transfers—Police Patrol—History—Rural Patrol—Patrol Regulations—Efficiency of Patrol—Signal Service—Patrol Systems—Two-Platoon System—Three-Platoon System—Five-Platoon System—Arrests—With a Warrant—Without a Warrant—Police-men's Powers—Failure to Make Arrests—Blackmail—Bail—Administrative Abuses—Constructive Arrest—In Germany—Control of Criminal Classes—Suspicious Persons—In Europe.

THE most important official duty of the police officer is the duty of knowledge. This duty is recognized to an important extent in the most primitive as well as in the best developed police organizations. By the duty of knowledge is meant the obligation imposed upon the policeman to know the occupation and the character of all persons residing in his jurisdiction, and to make himself acquainted with everything that takes place therein. In a primitive civilization this doctrine is pushed to its logical extreme. We find that in the early days of the English police system and in modern China¹ the police officer is held absolutely responsible for any crime committed in his jurisdiction. In the English system the police officer could readily meet this obligation since the system of mutual suretyship enabled him to call upon the neighbors to surrender the criminal.

¹ *Police Chief*, March 30, 1907, and April 27 1907.

In China, on the other hand, where there is no such system of mutual suretyship, the custom which holds the police officer so strictly accountable is the cause of grave abuse. Being obliged to discover and surrender the criminal and being subject to official degradation and even capital punishment, if he fails in this duty, it becomes apparent that, since many crimes are mysteries which the most capable police officers are unable to unravel, innocent men are often arrested and punished and guilty men with the necessary means can readily procure substitutes to suffer the punishment which they have merited by their deeds. In the German police system a policeman within whose jurisdiction many crimes occur, which remain unsolved criminal mysteries, is considered incompetent and soon discharged.

It is only in America that this duty of knowledge, though recognized, is imperfectly enforced. This imperfect enforcement is due not so much to an imperfect conception of the importance of the duty as to present-day conditions in practical police administration. In almost every American city the police force is undermanned, the inevitable result of which is that the posts of duty of the policemen are so long that it would be unjust to hold them to a strict accountability for all occurrences on their posts, since it is physically impossible for them to have such knowledge. It requires no elaborate demonstration to show that if a policeman's post covers three or four miles of streets, he is unable to keep himself constantly informed of what is taking place on every part of his post. Even if the post is smaller and an attempt is made, for example, to hold a policeman responsible for failing to detect and prevent a burglary on his post which may have occupied the attention of professional criminals for four or five hours, the power of the superior officer would be found to be inadequate properly to meet the situation.

Practically the only effective disciplinary measure

which can be employed in such a case is the transfer of the incompetent officer to an unimportant and undesirable post. This has the effect of punishing the offending officer, and of removing him from the district where his presence would, because of his incompetency, be particularly injurious to the public, but it neither teaches him how to perform his police duties properly nor removes him from the police force. Where such transfers are of frequent occurrence, it is a circumstance which positively hinders the policeman in performing his duty of acquiring knowledge of the occurrences on his beat. This knowledge can be best acquired by the officer who has been on duty in the same district for the longest period of time. For this reason it has become a fixed rule in German cities to change the posts of police officers very rarely and only in most exceptional cases. In America we find it necessary to transfer police officers frequently, principally because of the many limitations imposed by the courts upon the power of the head of department to remove inefficient policemen.¹ Experience has also shown that in many American cities frequent transfers of policemen are required to secure the enforcement of the laws and to prevent illicit arrangements between the policeman and the lawbreaker, looking to the latter's protection.

To assist the officer in acquiring knowledge of the persons and of the occurrences within his jurisdiction each policeman is now quite generally required to patrol his post continuously. This patrol of the posts is of comparatively recent origin. At first it was considered best to have the night-watchman stationed in a sentry-box where he could be easily found in case of emergency. The result was that these officers frequently slept in their little wooden shelters and we read that it was a favorite pastime for the boys of the street in the second and third decades of the last century to upset the sentry-

¹ Lawrence, *Political Science Quarterly*, xx, 68.

boxes while the night-watchmen were sleeping. As for the policeman whose duty it was to preserve order during the daytime, it was deemed dangerous for his personal safety to permit him to walk along the streets. Accordingly, in London and Paris, which were the first cities to have a regular police force, the policemen were always stationed at fixed posts,—the most important street corners. Gradually it became recognized in France that the policeman should endeavor to discover violations of the law himself rather than have such violations brought to his notice, and this led to the introduction of the police patrol system.

At first the patrol was established only during the night-time in the largest cities. It was also deemed advisable to have the policemen patrol in squads for their mutual protection. By slow stages the night patrol was supplemented by a day patrol; the squad patrol gave way to a patrol by a single officer, and in continental Europe the municipal police patrol was supplemented by a national police patrol of the more important highways. When the police patrol was first introduced it was confined to the night-time, because it was argued that during the daytime every person could easily protect his person and his property; but when experience showed that as the number of crimes committed during the night-time decreased, owing to the efficiency of the police patrol, the number of crimes during the daytime increased, owing to the greater opportunity offered the criminal by the absence of a regular patrol service, steps were taken to establish a day patrol. Similarly, when the patrol service was first introduced, the criminal class had little respect for the policeman and openly defied and attacked him; hence the patrol had to be by squads rather than by individual officers. As the discipline and efficiency of the police organization became better known to the criminals they began to respect the single officer, knowing that the power of the whole police force stood ready at all times to



support him. This made the patrol by a single officer possible.

As regards the need of a rural police patrol service, this is even at the present day but imperfectly recognized. It was at first supposed that since the population in the rural districts is small and men are known by their neighbors, a regular patrol would be unnecessary. There is much truth in this assertion. The maintenance of a patrol service is expensive, and it may well be that it is a needless expense in a sparsely settled district where strangers seldom penetrate and where every stranger is regarded with suspicion. But the great highways of travel need a patrol service. In the eighteenth century, when most travelling was done by coach or on horseback, the need of a highway patrol was acutely felt both in England and in France and this need was supplied by the establishment of a police force to patrol the important highways. At the present day the travel on the highways is chiefly local travel and can be left to the care of the local police, who are quite as competent to maintain order on the highways as in the villages. The great mass of modern travel is by way of the railroads and these corporations are induced to keep their property well policed by private watchmen or private railway police, because of the heavy legal liability imposed upon them by the courts for all accidents occurring on their right of way, to passengers or to passers-by.¹

All policemen except those detailed to special posts are required to patrol their posts continuously. They are expected to cover their entire post each day when they first come on duty and again just before their tour of duty is completed. During the rest of the time they are expected to walk along the most important portion of their beat. Policemen are expressly forbidden to loiter or loaf while on active patrol duty, and they are also forbidden to lean against the walls of buildings.

¹ Flynt, *Munsey*, xxii, 658.

Conversation with their brother officers and with citizens is likewise prohibited, unless such conversation relates to police business. While on duty they are required to remain continuously on the street and not to enter any house except when called upon to do so in the performance of actual police duty.¹ These regulations are amply sufficient to provide for a careful attention to duty on the part of the policemen and thus to give the citizens full police protection.

The question which suggests itself at once to the critical student is: "What steps are taken to enforce these regulations?" Patrolmen in every city are under the immediate administrative supervision of roundsmen or sergeants, whose duty it is to patrol their posts and see that the patrolmen under their charge attend to their duties. They are required to prefer charges against every patrolman whom they find off post or whom they are unable to find on post, unless he can satisfactorily explain his absence. Patrolmen against whom charges are preferred for being off post or for patrolling improperly are tried and, if found guilty, they are fined, generally from one-half day's pay to five days' pay. As a rule the roundsmen perform their duties efficiently, and are respected and feared by the patrolmen; yet the fact remains that the patrolmen in many American cities fail to give the city the protection which can be obtained only by a constant and vigilant patrol of the streets.

The causes of this condition of affairs are numerous. Policemen are no more indolent than any other class of individuals, but they do not want to do more work than they are compelled to do. The authority with which they are invested sometimes gives them a desire "to show off and take it easy," as they call it. They soon learn to know when the roundsman will visit their post and shirk their duties when he is not expected. The roundsman wears a distinctive uniform, and street urchins

¹ *New York Police Manual*, 1905, Rule 52.

take great pleasure in tipping the policeman at the approach of a roundsman. If the roundsman is shifted from one district to another, or if he is ordered to perform his duties in citizen's clothes, with a view to making it easier for him to discover delinquent patrolmen, the roundsman is called a spy, and the mere mention of that word is sufficient to raise such a popular and such a political protest against the system as to make its retention impracticable as well as practically impossible. The American public seems to view such a system as a species of official oppression and fails to recognize its value in raising the efficiency of the police.

Policemen, it should be remembered, shirk their patrol duties more at night than during the daytime. During the daytime the business activity of the busy city makes patrol work interesting, but to patrol a lonely street on a cold winter's night is exceedingly irksome. A somewhat similar problem must be solved in private life and has been successfully met in the case of private night-watchmen. It was found that no system of supervisors could make night-watchmen attend to their duties effectively. The desire to shirk his work during the lonely hours of the night was as strong in the private night-watchman as in the policeman. Finally the introduction of watchmen's time-clocks solved the problem. When a night-watchman must register his time on clocks placed in different parts of his tour of duty and when these clocks are so situated that the chief executive knows how long it should take an efficient man who attends strictly to his business to go from one clock to the next, the man who wants to shirk his duty will soon lose his position. An examination of the clock records in the morning shows which man has been guilty of neglect and if such neglect is unexplained and repeated, it proves that the usefulness of the man as a watchman is small.

A modification of this system has been introduced in the police systems of some of our larger American cities.

A police signal service has been installed in these cities, consisting of iron boxes placed at frequent intervals along the street, one being located on the post of each patrolman and connected with the precinct station-house. From these boxes the policeman is required to report by telephone or by telegraphic signal at stated intervals, generally at the end of each hour. From these boxes he can also call an ambulance, a police patrol wagon, or reinforcements as the exigencies of the occasion may require. At present we are interested in the police signal service only as an agency to improve the efficiency of the police patrol service. In this direction it has produced some important results. Whereas formerly it was not an infrequent occurrence for a policeman on a cold winter night to enter a bakery and sleep there beside the ovens during the whole night, admonishing the proprietor merely to wake him at a particular hour when the roundsman was expected, he must now signal every hour and must therefore, if he desires to sleep, divide his sleep into short periods of less than one hour's duration. This being impracticable we can say that the signal service has resulted in keeping the patrolmen awake during the night.

But refraining from sleeping does not necessarily imply efficient patrolling. For the policeman who wishes to shirk his work it is still possible to spend the night in some house, going out on the street only at the end of each hour when he is required to signal.¹ Complaints of improper patrolling are frequently reported in the newspapers and even after making due allowance for journalistic exaggeration, it would seem that the police patrol service is still far from perfect. It would appear also that the efficiency of the service might be increased by installing more signal boxes and requiring the patrolmen, at least at night, to send their signals from different boxes at intervals of fifteen or thirty minutes so that the precinct commander might be advised continuously

¹ Piper, *Publications Chicago City Club*, i, 6.

of the exact position of each patrolman and of the progress of his patrol. Such a regulation would unquestionably compel the policemen to attend strictly to business, as well at night as during the daytime.

The hours of service required of police officers in the United States vary considerably in different cities. The different systems are designated the two-platoon or the three-platoon system, according to the number of equal divisions into which the police force is divided for the purpose of assigning the men to duty. Under the three-platoon system the police force is divided into three equal parts and roughly speaking one of these three platoons is on duty at a time, so that theoretically under the three-platoon system each man is compelled to work only eight hours a day. This statement, however, is not strictly accurate for the following reasons. In the first place, more men are required for patrol service during the hours of the night than during the hours of the day. Secondly, policemen are needed for the performance of reserve duty at the station-houses, to be called upon to assist the men on the street in cases of emergency. Thirdly, men are required for special details and for special posts. Fourthly, policemen must attend to such routine personal wants as the taking of their meals and to extraordinary personal wants caused by their own illness or by illness in their families. These needs render necessary an elaborate time table to adjust properly the somewhat conflicting claims of the policemen and the community with respect to the hours of service which should be required of each man.

It is unnecessary to burden the lay reader with a detailed statement of the various police patrol systems in the United States. It is sufficient to state that a different system is used in almost every city, as is indicated by the hours of service required in the seventy-five largest American cities as tabulated in the chart on page 122. The two-platoon system, or a system which embodies

the salient features of the two-platoon system, is in force in most of the American cities. By such a system twenty-five per cent. of the force is on patrol during the day, fifty per cent. is on patrol during the night, and twenty-five per cent. is on reserve at all times. The continuous period of patrol duty varies from two hours to six hours, and on one day in four the men are required to work the whole day, counting both patrol service and reserve duty as work. On two days of the four the men have twelve hours off continuously and on one day of the four there are only two hours off. Under the two-platoon system of patrol the city is well patrolled, since the services of a large percentage of the force are utilized at all times. Police work, however, is fairly hard, and it has been the tendency in the United States for the policemen to insist that the two-platoon system makes the work too hard for them. From our brief analysis of the system it is apparent that under the two-platoon system the policemen have very little time off. Even though a policeman is generally not required to perform any work during his tour of reserve duty he must be in the station-house continuously and he is thus prevented from being with his family or enjoying any recreation during these periods.

The demand for the three-platoon system on the part of the police has corresponded with the general establishment of the eight-hour law for all workmen. The establishment of the eight-hour work-day has undoubtedly tended to raise the physical and the social condition of the working people and is to be strongly commended for that reason. In the case of the American policeman it should also be borne in mind that he is not, like his English or German brother officer, a soldier who lives in the police barracks, but frequently a married man with a family and that he should be permitted to enjoy the company of his wife and his children for reasonable periods of time. Under the three-platoon system, which has been adopted in a few American cities, each police-

TABLE 3. HOURS OF SERVICE OF PATROLMEN.

CITIES. (In Order of Size.)	Total Strength of Force.	Patrolmen.	Roundsmen.	Sergeants.	Captains.	Hours of Service.	Three Platoons.	Two Platoons.	Not Specified.
1. Chicago, Ill.	2600	2306	103	135	75	9	.....	.....	.....
2. St. Louis, Mo.	1200	.....	100	12	12	12	.....	.....	.....
3. Baltimore, Md.	940	700	129	19	8	10	.....	.....	.....
4. Cleveland, O.	462	380	28	27	4	10	.....	.....	.....
5. Buffalo, N. Y.	726	607	39	43	13	.....	×	.....	.....
6. Pittsburgh, Pa.	470	410	20	10	5	9	.....	.....	.....
7. Cincinnati, O.	520	398	10	32	21	9	.....	.....	.....
8. Milwaukee, Wis.	331	306	16	6	1	11	.....	.....	.....
9. Detroit, Mich.	528	356	.....	23	11	.....	×	.....	.....
10. New Orleans, La.	250	206	24	13	6	12	.....	.....	.....
11. Newark, N. J.	410	286	13	15	4	8	.....	.....	.....
12. Jersey City, N. J.	410	257	19	26	7	7	.....	.....	.....
13. Minneapolis, Minn.	199	133	17	5	6	11	.....	.....	.....
14. Indianapolis, Ind.	168	.....	.....	.....	.....	10	.....	.....	.....
15. Providence, R. I.	300	.....	.....	.....	.....	7	.....	.....	.....
16. Kansas City, Mo.	244	.....	25	8	6	12	.....	.....	.....
17. St. Paul, Minn.	166	140	8	5	1	9	.....	.....	.....
18. Denver, Colo.	127	.....	.....	.....	.....	8	.....	.....	.....
19. Toledo, O.	135	113	8	3	1	8	.....	.....	.....
20. Columbus, O.	159	.....	.....	7	1	10	.....	.....	.....
21. Syracuse, N. Y.	121	.....	.....	.....	.....	8	.....	.....	.....
22. Fall River, Mass.	134	94	.....	10	5	10	.....	.....	.....
23. Memphis, Tenn.	100	76	3	2	2	10	.....	.....	.....
24. Paterson, N. J.	104	.....	13	.....	1	8	.....	.....	.....
25. St. Joseph, Mo.	63	51	2	.....	1	12	.....	.....	.....
26. Scranton, Pa.	72	.....	.....	.....	1	9	.....	.....	.....
27. Lowell, Mass.	133	118	5	3	4	8	.....	.....	.....
28. Portland, Ore.	100	93	3	.....	3	8	.....	.....	.....
29. Cambridge, Mass.	122	91	6	9	.....	10	.....	.....	.....
30. Albany, N. Y.	157	116	16	.....	5	6	.....	.....	.....
31. Grand Rapids, Mich.	.....	.....	.....	.....	.....	8	.....	.....	.....
32. Dayton, O.	122	.....	7	.....	1	8	.....	.....	.....
33. Seattle, Wash.	120	.....	.....	.....	.....	.....	×	.....	.....
34. Hartford, Conn.	100	90	6	1	1	9	.....	.....	.....

36.	N. shville, Tenn.	85	70	.....	.....	10	2	.....	8
37.	Wilmington, Del.	83	.....	.....	.....	.....	2	.....	12
38.	Camden, N. J.	97	.....	.....	.....	.....	2	.....	8
39.	Bridgeport, Conn.	70	.....	.....	.....	.....	2	.....	10
40.	Troy, N. Y.	119	102	4	12	2	4	.....	.....
41.	Lynn, Mass.	76	68	4	4	5	1	.....	8
42.	New Bedford, Mass.	119	81	6	6	7	2	.....	6
43.	Somerville, Mass.	63	44	4	4	3	1	.....	7
44.	Lawrence, Mass.	70	.....	.....	.....	3	.....	.....	8
45.	Des Moines, Ia.	70	48	2	2	2	2	.....	8
46.	Savannah, Ga.	121	101	3	.....	9	.....	.....	7
47.	Peoria, Ill.	75	.....	3	.....	1	1	.....	12
48.	Duluth, Minn.	55	46	5	.....	2	1	.....	10
49.	Elizabeth, N. J.	69	.....	.....	.....	.....	.....	.....	8
50.	Erie, Pa.	44	.....	2	.....	2	1	.....	10
51.	Charleston, S. Car.	107	89	8	.....	3	.....	.....	8
52.	Harrisburg, Pa.	47	.....	.....	.....	.....	.....	.....	9
53.	Yonkers, N. Y.	62	52	4	.....	5	.....	.....	.....
54.	Portland, Me.	62	57	2	.....	.....	.....	.....	.....
55.	Schenectady, N. Y.	52	20	.....	.....	10	.....	.....	.....
56.	Holyoke, Mass.	54	.....	.....	.....	.....	.....	.....	9
57.	Port Wayne, Ind.	38	28	2	.....	1	1	.....	12
58.	Saginaw, Mich.	59	34	5	.....	2	2	.....	8
59.	Tacoma, Wash.	50	.....	.....	.....	.....	.....	.....	8
60.	Covington, Ky.	40	35	1	.....	.....	3	.....	12
61.	Dallas, Tex.	71	.....	.....	.....	.....	.....	.....	12
62.	Binghamton, N. Y.	40	.....	.....	.....	.....	.....	.....	8
63.	Mobile, Ala.	65	.....	4	.....	.....	1	.....	12
64.	Springfield, O.	40	.....	.....	.....	.....	.....	.....	12
65.	Haverhill, Mass.	32	27	1	.....	1	1	.....	9
66.	Topeka, Kan.	28	.....	2	.....	.....	.....	.....	12
67.	Davenport, Ia.	31	20	2	.....	.....	1	.....	12
68.	Elmira, N. Y.	40	.....	2	.....	.....	1	.....	8
69.	Newton, Mass.	59	40	3	.....	2	1	.....	.....
70.	Springfield, Ill.	42	39	3	.....	.....	.....	.....	.....
71.	Chattanooga, Tenn.	53	.....	.....	.....	2	.....	.....	10
72.	Williamsport, Pa.	20	17	1	.....	.....	1	.....	10
73.	Cohoes, N. Y.	19	13	3	.....	1	.....	.....	7
74.	Newport, R. I.	35	29	.....	.....	4	1	.....	8
75.	San Diego, Cal.	16	11	1	.....	.....	1	.....	8
Average.....		.....	.....	.....	.....	.....	.....	.....	10
Totals.....		.....	.....	.....	.....	.....	.....	.....	.....
		.....	.....	.....	.....	5	.....	2	1

man patrols not more than eight hours a day. It may be stated also that under the three-platoon system one-third of the force is always patrolling, day and night, and one-ninth of the force is always in reserve.

The principal objections to the three-platoon system are that it puts a larger percentage of men on patrol during the daytime than is necessary and fails to put enough men on patrol at night, and furthermore under this system the reserve force of eleven per cent. is so small that when we take from the reserve force the men who are sick, absent with or without leave, or attending court, the reserve force is grossly inadequate. Under the three-platoon system, moreover, although no man works more than eight hours a day on the street, yet his off-time comes in broken periods of four hours each on eight days and of sixteen hours each on eight days. Time-off which comes in broken periods is unsatisfactory from the policeman's point of view, because in broken periods of rest he can neither recuperate properly nor enjoy himself. Recognizing the fact that under the two-platoon system the policeman is kept away from his family more than he ought to be, although he is probably not compelled to work too hard for the city, and that under the three-platoon system the city is inadequately protected, by reason of the grossly inadequate reserve force and the insufficient patrol force during the night, it is apparent that the subject of the proper adjustment of the hours of patrol for policemen presents a very intricate and nice problem of mathematics.

Commissioner Theodore A. Bingham during his incumbency as police commissioner of New York City gave to this problem a more careful, painstaking, and scholarly attention than it has ever received in America, and as a result of his study he published his five-platoon order.¹ Under this system, which combines the adequate police protection offered by the two-platoon system with all

¹ General Order No. 6, 1907.

the elements of the three-platoon system which are especially agreeable to the policemen, the force is divided into five platoons whose hours of service are arranged as follows:

PATROL	1 ST DAY				2 ND DAY				3 RD DAY				4 TH DAY				5 TH DAY			
RESERVE	2 A	8 A	2 P	8 P	2 A	8 A	2 P	8 P	2 A	8 A	2 P	8 P	2 A	8 A	2 P	8 P	2 A	8 A	2 P	8 P
OFF DUTY	10 P	2 A	8 A	2 P	10 P	2 A	8 A	2 P	10 P	2 A	8 A	2 P	10 P	2 A	8 A	2 P	10 P	2 A	8 A	2 P
1 ST PLATOON		X				X				X				X				X		
2 ND "	X				X				X				X				X			
3 RD "			X				X				X				X				X	
4 TH "				X				X				X				X				X
5 TH "			X			X			X				X				X			

Five Platoon System for Patrolmen.
Devised by Commissioner Bingham of New York.

The features of this system which are especially to be commended are the following: Twice as many men perform patrol duty on the street during the night as during the daytime. No policeman is required to perform more than six consecutive hours of patrol service, which reduces to a minimum the arduous and physically exhausting duties of the policeman's life. Each policeman has one day of twenty-four hours off in every five days and has no time-off which consists of a briefer period than twelve consecutive hours. The bane of broken periods of time-off, which is one of the greatest objections to the three-platoon system, is thus disposed of. Patrolmen are permitted to sleep during their regular tour of reserve duty and are not called upon for any police duty during such reserve tour except in cases of emergency.

House duty is performed by three members of the reserve platoon in such a manner that it is performed alternately by the members of the platoon, and the duty is thus distributed equally among the men. House duty, it should be explained, consists of the performance of such necessary police duty as cannot be performed by the men who are performing regular patrol service on the street. Moreover, no extra time is allowed to the policemen for the procuring of their meals, since the whole reserve platoon is required to

take its meals together while on reserve duty, with the exception of the three patrolmen who are held in reserve while the rest of the platoon is taking its meals, and who themselves take their meals either before or after the remainder of the platoon. This duty of reserve during meal time is also to be performed alternately, so as to distribute the burden equally among the men. In no case does the taking of meals interfere with the six-hour tour of patrol duty. This five-platoon system, combining as it does the adequate night police protection and the adequate reserve force, short periods of continuous patrol service and long consecutive periods of time-off, ought to solve permanently the conflicting claims of the community and of the policemen with regard to the hours of labor which can properly be demanded of police officers in our large American cities.

The most important official duty and power of the policeman is the duty and the power of arresting individuals, and because of its importance this subject will be treated somewhat fully in this monograph, both from the point of view of law and from the point of view of policy. A criminal arrest is the apprehension of a person in order that he may be forthcoming to answer for an alleged or suspected crime or to prevent the commission of a criminal offence.¹ To constitute an arrest it is necessary that the policeman should assume custody and control over the person arrested, either by force or with his consent. The mere utterance of words indicating an intention to arrest on the part of the person uttering them or the reading of the warrant is of itself not sufficient for a valid arrest; on the other hand, actual force, manual touching of the body, or physical restraint is not necessary, and should not be employed, when the party submits to or is in the power of the police officer.² An arrest may furthermore be made in one of four ways: Under a warrant, by a

¹ *Montgomery County vs. Robinson*, 85 Ill. 174.

² *Century Digest*, iv, 778.

police officer without a warrant, by a private person without a warrant, or by hue and cry¹. We are interested primarily in the first two of these methods of arrest,—under a warrant, or by a police officer without a warrant,—and are only interested in the other two methods,—by a private person without a warrant and by hue and cry,—as a basis of comparison.

When an arrest is made under a warrant, the power of the person executing the warrant is not very materially affected by the fact that the person executing it is a policeman. A private person can only execute a warrant when it is directed to him by name,² while a policeman can execute it, not only when it is addressed to him by name but also when it is addressed to police officers generally. At common law, however, there was an important distinction with regard to the necessity of showing the warrant to the person arrested. While a private person or a policeman not bearing any of the indicia of his office was required to show the warrant before making an arrest, if so requested,³ a police officer, commonly known as such and acting within the limits of his jurisdiction, was not bound to show his warrant, even though it was demanded of him, as every one was bound to know the character of such an officer, when acting within his proper jurisdiction, and was bound to submit peaceably to the arrest before he could demand that the cause thereof be made known to him.⁴

After the person had submitted to the arrest or acquiesced in the authority of the officer, the latter should, if it is demanded, acquaint the former with the cause of the arrest, either by stating the substance of the warrant to him or by reading it to him; but when the officer is resisted and there is danger of the prisoner's escape, it

¹ *Blackstone's Commentaries*, iv, 289.

² *Dehm vs. Hinman*, 56 Conn. 320.

³ *Frost vs. Thomas*, 24 Wend. N. Y. 418.

⁴ *State vs. Townsend*, 5 Har. Del. 487.

seems that he is not bound to exhibit his warrant.¹ The provisions of the New York Code of Criminal Procedure on this subject are that the defendant must be informed by the officer that he acts under the authority of the warrant and must also show the warrant, if required.² Warrants like all other process in criminal proceedings are strictly construed, and no one may be arrested under a warrant except the person named therein, even though the warrant was intended to designate the person actually arrested,³ unless a statute authorizes the designation by a fictitious name of a person whose name is unknown.⁴

At common law the powers of a private citizen and of a policeman in arresting without a warrant were identical. They both could arrest without a warrant one whom they found committing or attempting to commit a felony in their presence, and the arrest might be made at any subsequent time as well as at the time of the commission of the felony. They could also arrest without a warrant for the purpose of preventing the commission of a felony, and, furthermore, if they had reasonable or probable grounds for suspecting that a man had committed a felony, they could arrest him even though the person suspected was in fact innocent.⁵ For a misdemeanor neither a policeman nor a private citizen could at common law arrest without a warrant, with but a single exception. A police officer or a private person could arrest without a warrant any person who was committing or who had committed a breach of the peace in his presence or within his view, but could not so arrest for a breach of the peace not amounting to a felony committed out of his presence or without his view.⁶ And finally, neither police officers

¹ *Commonwealth vs. Hewes*, 1 Brewst. Pa. 348.

² *N. Y. Code Criminal Procedure*, § 173.

³ *Harris vs. McReynolds*, 10 Colo. App. 532.

⁴ *N. Y. Code Criminal Procedure*, § 152.

⁵ *Williams vs. State*, 44 Ala. 41.

⁶ *People vs. Pratt*, 22 Hun N. Y. 300.

nor private citizens could arrest at common law without a warrant for a violation of municipal ordinances.¹

Legislation in the United States has been in the direction of emphasizing the fact that although the powers of police officers and private citizens were historically almost identical, the intrusion of private citizens in the making of arrests without a warrant should be discouraged, because it is dangerous to individual liberty and because it is unnecessary on account of the well-developed modern police organizations. We find, accordingly, that the New York statute,² which has been copied in a number of American states, while permitting a private citizen to arrest without a warrant for a crime committed or attempted in his presence, or when the person arrested has committed a felony, although not in his presence, permits a policeman in addition to arrest without a warrant when a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it. It should be noted that this statutory provision not only restricts the power of a private citizen to arrest without a warrant by making him legally liable if the person arrested has not in fact committed a felony, but it also extends the power both of the police officer and of the private citizen as regards arrests for misdemeanors by permitting arrests without a warrant by either for any crime,—felony or misdemeanor,—committed or attempted in their presence.

A policeman, while making an arrest, is entitled not only to freedom from interference but also to actual assistance. He may arrest without a warrant any one who interferes with him,³ and assaults upon policemen are generally more severely punished than similar assaults upon private citizens.⁴ When a known police officer

¹ *Tillman vs. Beard*, 121 Mich. 475.

² *N. Y. Code Criminal Procedure*, §§ 177, 183.

³ *Leddy vs. Grossman*, 108 Mass. 237.

⁴ *N. Y. Penal Code*, § 218.

summons a bystander for the purpose of assisting him in making an arrest, the bystander is bound to respond,¹ but no person who has not been duly summoned to aid the officer has a right to participate in the attempted arrest.² An officer in making an arrest, either with a warrant or without a warrant, may break open a door or a window, if he is refused admittance after he has stated his purpose and his office,³ and if after entering a house for the purpose of making an arrest he is detained therein, he may break a door or a window, when necessary, for his own liberation.⁴

But such domiciliary visits can be made by a policeman only when he is engaged in making an arrest under one of the four circumstances permitted by the statute:— (1) under a warrant, (2) for a crime committed in his presence, (3) where the person arrested has committed a crime though not in his presence, or (4) where a felony has been committed and he has reasonable cause for believing that the person arrested has committed it. The policeman cannot break into a house on mere suspicion that a crime has been committed, nor for the purpose of securing evidence, as is lawful in Russia. And although the police in arresting for a felony may arrest at any time of the day or night, or even on Sunday,⁵ yet midnight or Sunday arrests are condemned by public opinion and are of very infrequent occurrence. Arrests during the night-time are regular occurrences in Russia, because, as one writer explains it, men are surely found at home at midnight; but such arrests bear the indicia of the tyrant's hand too plainly to be tolerated in America.⁶

As regards the use of force by a policeman in making

¹ *Dougherty vs. State*, 106 Ala. 63.

² *Hamline vs. Commonwealth*, 11 Ky. L. R. 348.

³ *N. Y. Code Criminal Procedure*, §§ 175, 178.

⁴ *Ibid.*, § 176.

⁵ *Ibid.*, § 170.

⁶ *Stepniak, Russia under the Tsars*, Pt. 2, p. 96.

an arrest, it seems to be well settled that a policeman or even a private citizen acting without a warrant may kill a felon, if necessary, when he resists or flees so that he cannot be otherwise taken.¹ But when arresting for a misdemeanor or on suspicion of felony, an officer has no right, except in self-defense, to proceed to the extremity of shedding blood in arresting or preventing the escape of a prisoner, even though the offender cannot be taken otherwise.² An officer is only justified in using such force as is necessary to secure and detain the offender, overcome his resistance, prevent his escape, and recapture him if he escapes; but he is never justified in using unnecessary force, or in treating his prisoner with wanton violence, or in resorting to dangerous means when the arrest can be effected otherwise. The amount of force to be used in an individual case is to be left to the discretion of the officer when he is engaged in discharging a public official duty and is actuated by no ill-will.³

As far as the uniformed policemen are concerned, there is no particular difficulty experienced in enforcing the statutes relating to the principal felonies. Most of the graver felonies require attention, it is true, from the detective branch of the service, but there are a considerable number of felons apprehended in the act by the policemen on the street. No policeman ever shows the slightest hesitation in arresting a criminal whom he finds guilty of a murder, a burglary, an assault, or a robbery. Such crimes appear as wrongful and as heinous to the eye of the policeman as they do to the eye of the judge. With misdemeanors, however, the situation is slightly different. Some of these are merely municipal regulations with a penal sanction and others aim to raise the moral tone of the community. In either case the thoroughly practical

¹ *Conraddy vs. People*, 5 Park. N. Y. Crim. 234.

² *United States vs. Clark*, 31 Fed. 710.

³ *State vs. McNinch*, 90 N. C. 695.

common-sense policeman is loath to make an arrest.

When the statute aims to raise the moral tone of the community, his own moral standard may coincide with that of the violator of the law and, in any case, he may be of the opinion that summary arrest is too severe a penalty for the violation of a municipal regulation. In addition to these considerations of policy, which tend to cause the policeman to refrain from making arrests for violations of municipal ordinances, there are also personal considerations, having a somewhat similar tendency. Each policeman is required to perform a certain number of hours of police duty each day and has a certain number of hours which he may spend with his family at home. When he makes an arrest he may be obliged to spend in court, prosecuting the man he has arrested, a portion of the time which he would otherwise spend at home with his family. This acts as a powerful deterrent in preventing unjust and hasty arrests, but it also keeps policemen from making an arrest for a misdemeanor in cases in which such an arrest would be justified.

Another influence which tends to lessen the number of arrests for misdemeanors is the ever-present influence of petty blackmail. The blame for this blackmail should be placed upon the laws rather than upon the policemen or upon the bribe-givers. A typical illustration may serve to make this clearer. The city ordinances generally impose a large number of petty restrictions upon the right of builders to store building material on the streets. The purpose of these regulations is to prevent the builders from inconveniencing the public by using the streets as a private storage yard. It was never the intention of the legislators that these regulations be rigidly enforced uniformly on all the streets; it was rather their intention to provide a law which might be enforced where business and traffic conditions demanded its rigid enforcement.

A policeman has it in his power, nevertheless, to enforce these regulations rigidly at his discretion and, if he so

enforces them, the builder will be continually harassed by being arrested and his building operations will be continually interfered with. Can we as practical men seriously condemn the builder when he prefers to give the policeman on post a bribe of a few cigars or a few dollars each week rather than to suffer the inconvenience and actual pecuniary loss to which he would otherwise be subjected? And why should we expect from the policeman such a far higher code of morality than that possessed by other men of his social station and demand that he refuse to accept such evidences of good will and friendship from those with whom he is thrown into contact professionally? It is true, the policeman is a public officer and a perfect administrative supervision would tend to crush all blackmail, but until we can get such an administrative supervision, the remedy must be sought in securing such laws as will leave to the subordinate police officers only a minimum of discretion. The real blame attaches not to the policeman who accepts a bribe temptingly offered him, nor to the bribe-giver who seeks by giving a bribe to make the best possible business arrangement, but rather to the law, which by giving the police a large and uncontrolled discretion in the enforcement of the law places a premium upon bribe-giving and bribe-taking.

At common law and under modern statutes, it is the privilege of every person who is arrested either by a policeman or by a private citizen, with a warrant or without a warrant, to be taken forthwith before a magistrate.¹ When the arrest is made by a policeman, it is his duty to take the prisoner at once and without delay to the precinct station-house. Reasons of public policy and convenience except from the operation of this regulation two classes of individuals, —drivers of mail wagons and employees of railways and street railways, who are privileged to complete their trip before being taken to the station.²

¹ *N. Y. Code Criminal Procedure*, § 165.

² *New York Police Manual*, 1905, Rule 51 L.

Upon arriving at the station-house the policeman states the nature of the charge to the sergeant at the desk, and, if the police court is in session, the accused must be taken at once before the police magistrate for examination. Here again reasons of public policy exempt two classes of persons from the operation of this regulation,—intoxicated persons¹ and children.² The former are to be sent to a hospital or are to be allowed to remain in the station-house until they become sober, according to the seriousness of their condition, while the latter are generally required by statute to be sent to a separate court to prevent their being brought into contact with the contaminating influences of a police magistrate's court.

If the police court is not in session when the prisoner is brought to the police-station, the question of admitting the prisoner to bail to insure his appearance before the magistrate comes up for consideration. The statutes generally provide, for the purpose of protecting the individual against an unjust deprivation of his personal liberty, that the police sergeant must accept bail from any person charged with a misdemeanor, if bail in a sum twice the amount of the largest fine which may be imposed for the offense be tendered. The bail must preferably be tendered either in the form of real estate or cash; personal property is generally not acceptable, chiefly because of the practical difficulty in determining its correct value. Cash bail is of course acceptable without inquiry; in the case of real estate, however, the person offering it is generally required to prove his ownership of the property, preferably by producing the title deeds of the property.

Here again an overzealous regard for the rights of the individual citizen has indirectly been the cause of a somewhat serious administrative abuse,—the abuse of the straw bondsman, the professional bondsman, and the co-operative bondsman. Frequently a single individual plays each of

¹ *New York Police Manual*, 1905, Rule 51 J.

² *N. Y. Penal Code*, § 291. Par. 6.

these three rôles. A straw bondsman is a man who pledges as bail property which he does not own; a professional bondsman is one who makes it a business to furnish bail for a consideration; and a co-operative bondsman shares with the police sergeant the fee which he receives for furnishing bail. The straw bondsman is a felon, a perjurer, since to have his bail accepted he must swear that he owns the property which he pledges as security, the police sergeant being specially authorized to administer an oath for this purpose.¹ It ought not to be a difficult task for an efficient prosecuting officer to detect the straw bondsman and secure his conviction, particularly if he is a professional bondsman, as he is apt to be.

The co-operative bondsman does not violate any statute of the state. The police officer who co-operates with him violates the regulations of the department and renders himself subject to administrative discipline, but it would be extremely difficult to convict the bondsman of bribery or of any other crime. The case of the professional bondsman is even more difficult to deal with. The man who furnishes bail for a consideration may conceivably be doing a legitimate business; large surety companies are continually furnishing bail bonds in civil and criminal proceedings. The business of the professional bondsman becomes reprehensible chiefly by reason of the fact that he is nearly always a co-operative bondsman. The remedy for this evil cannot be the granting of a discretion to the police sergeant to refuse bail offered by a professional bondsman. Such a discretion would be almost certain to be abused and would be extremely dangerous to the liberty of the individual. The only feasible remedy is to reduce the number of arrests for petty misdemeanors, because there are many reasons why the abuse of the professional, the co-operative, and the straw bondsman is worse in the case of persons arrested for misdemeanors than in the case of persons charged with felony. In the first place only a

¹ *N. Y. Code Criminal Procedure*, § 554.

police magistrate can accept bail where the charge against the prisoner is a felony¹ and this removes the question of the acceptance of bail from the jurisdiction of the police sergeant. Not only is a magistrate more likely to scrutinize the tendered security more carefully, but professional bondsmen are also less likely to offer bail in such cases because of the greater danger that the prisoner may fail to be present on the day of trial.

Since it is the policy of our American jurisprudence to restore to liberty upon their furnishing proper and acceptable bail all prisoners, excepting those charged with a capital offense, until the question of their guilt has been passed upon and determined by a court of competent jurisdiction, any administrative abuses which have arisen in connection with this system of bail ought logically to be corrected, not by curtailing the absolute right of an unconvicted prisoner to be admitted to bail, but by decreasing the number of arrests for petty offenses and misdemeanors. There are other reasons besides administrative reasons which render it imperative that the number of arrests for misdemeanors be reduced. It is impossible to conceive of any greater humiliation or disgrace which can befall a self-respecting member of the community than to be arrested and subsequently acquitted in the police court. Those who suffer this experience because they have been erroneously charged with a felony are fewer in number than those who must endure the same experience on an unsupported charge of misdemeanor and, furthermore, those so charged with felony have generally themselves or their associates to blame for their predicament.

On the other hand, the most highly respectable member of the community, of exemplary character, habits, and associations, is daily in danger of being arrested by a policeman on a charge of misdemeanor and placed in a station-house cell together with felons, drunkards, and men guilty of every vice. A night spent in such surround-

¹ *N. Y. Code Criminal Procedure*, § 554.

ings will inflict more hardship and suffering upon an honest man than almost any indignity to which he might be subjected. The mere deprivation of personal liberty is a serious shock to any one, but the company which the prisoner is forced to share at the station-house is much worse. A citizen may be standing on a street corner for a few minutes' conversation with a friend and may ignore the gruff command of the policeman to move on; his arrest on a charge of disorderly conduct may result. Or, he may be endeavoring to quell a street disturbance and become so much involved in the disturbance himself that it becomes impracticable for the policeman to determine who is the real offender; in such a case also all must be taken to the station-house and charged with disturbing the peace.¹

To save such prisoners the horrors of a night in a station-house cell, the method of treating offenders against minor municipal regulations at present in use in Germany is strongly to be recommended. Persons charged with felony are in the German cities taken to the station-house as with us, and their lot cannot be much better than that of our own prisoners when we bear in mind that the police-stations in the larger cities are located in tenement houses and that there are no individual cells. Most misdemeanants, on the other hand, are not arrested at all but are simply notified to appear at a certain place at a given time when their case will be heard and determined. It is undoubtedly true that a failure to obey such a summons can be more quickly punished in Germany than in America, because of the excellent system of police registration in Germany, but even in America the system is worthy of a trial. The privileges of the summons might be extended to men of such standing in the community as would render their appearance in court or their prompt apprehension, in case of failure to appear, reasonably certain, while the arrest of men who have no fixed place of business or of residence would not be as great a hardship to them, since

¹ Kudlich, *Forum*, xxiv, 487.

they would probably meet their peers in the station-house cells.

It may possibly be objected that this system would give too much discretion to the police officer and discretion of a kind, too, which he might abuse by showing favoritism. This is probably true, but the injustice which is inflicted upon a respectable citizen by an unjust arrest for a petty misdemeanor is so great and the interest of the state is so little affected by any possible favoritism in according the privilege of constructive arrest to those unworthy of it, that the system should at least be given a trial. Police magistrates in America have for some time employed this system when complaints are addressed to them instead of to the police. In such cases the magistrates issue a summons rather than a warrant to the accused misdemeanant, and although sometimes the person who receives such a summons is advised by his lawyer that he need not obey it, which is strictly true in law, such cases are of such infrequent occurrence and can be so easily remedied by the subsequent issue of a warrant that the system has proved an unqualified success in saving innocent citizens from the disgrace of an arrest. The practical value of the system of constructive arrest in the police regulation of the social evil will be considered in the chapter devoted to that subject.

Arrests by police officers on suspicion may be divided into two classes,—cases in which the police officer suspects that the person arrested has committed a crime and cases in which the police officer, although he does not suspect that the prisoner has committed any particular crime, yet with an accuracy of judgment only to be acquired by long experience has determined that he is a dangerous character. A police officer has an undoubted right to arrest without a warrant one whom he has reasonable or probable grounds to suspect of having committed a felony, even though the person arrested is innocent.¹ The reasonable

¹ *Filer vs. Smith*, 96 Mich. 347.

and probable grounds which will justify an officer in arresting, without a warrant, one whom he suspects of felony must be such as would actuate a reasonable man acting in good faith.¹ The necessary elements of the grounds of suspicion are that the officer acts upon a belief in the person's guilt based either upon facts or circumstances within the officer's own knowledge or upon information imparted to him by reliable and creditable third persons. Such an arrest is illegal when made by an officer upon mere suspicion, unsupported by facts or credible information calculated to produce such suspicion.²

Where, on the other hand, a police officer arrests an individual who has committed no crime and is not suspected of having committed any crime, on the ground that he is a suspicious and dangerous character, there is no general legal justification for such action under our American law in the absence of a special statute. There is no offense known to the American criminal law which can be designated "being a suspicious person," but individuals answering this description can easily be charged with being vagrants and that is generally the technical charge on which such prisoners are arraigned. Since under the ordinary vagrancy statutes the burden is thrown on the defendant to disprove the accusation by showing that he has a means of support, it is not difficult to fasten on the prisoner the offense of vagrancy, particularly since most of these men will prefer to plead guilty in order to avoid a too critical examination into their mode of life.

But to punish them for vagrancy is not the object of their arrest. The purpose of the police is to rid the city of these dangerous criminals and the magistrate's threat to send them to jail for vagrancy, if they do not leave town within twenty-four hours, generally accomplishes this purpose. Insofar as these individuals have been guilty of a violation of the vagrancy laws, they are without doubt subject to

¹ *Chandler vs. Rutherford*, 101 Fed. 774.

² *People vs. Burt*, 51 Mich. 199.

arrest, and may and should be punished for vagrancy in accordance with the provisions of the statute, but when the police above and beyond enforcing the vagrancy laws undertake to supervise and control the actions of the criminal classes, except when a specific crime has been committed and the offender is arrested therefor, their action is illegal and a resistance to the police control thus exercised will lead to a release of the offender in court. Because of the low social position of these professional criminals, such resistance to the action of the police is seldom made and the police use this method as an extra-legal means of controlling the criminal class. Many jurists of eminence, notably Justice Gaynor, of the New York Supreme Court, severely condemn this lawlessness of the police as they call it. That it is legally unjustifiable cannot be disputed, but in the absence of a statute giving the police a power of supervision and control over the professional criminal classes, it may be absolutely essential for the welfare of society. Experience in America has shown that it has prevented the commission of many crimes and that it has caused hardly any injustice to the criminal classes.

In European countries the legal control of the police over professional criminals is much larger than in America. In Germany any person who is unable properly to identify himself is subject to summary arrest for identification. Persons of bad character so arrested may, even though no specific charge is made against them, be subjected to the supervision and control of the police after their discharge. They are either confined within certain districts or prohibited from resorting in certain localities or compelled to report to certain police officers at stated times. This police supervision may last during life or for some fixed period which varies with the gravity of the offense and the number of offenses which the person under supervision has committed.¹ Regulations which are somewhat similar

¹ Von Holtzendorff's *Rechtslexicon*, ii, 322.

though not quite as stringent, have been established in England by the Habitual Criminals Act.¹

As a method of protecting society against professional criminals these regulations have been exceedingly useful in Europe. In America they have never been tried and, unless considerably modified, would probably be found to be incompatible with the spirit of our American institutions. As a punishment for crime the legislature has power to institute such police regulations, unless the length of time during which the criminal is kept under surveillance would expose the regulation to the constitutional objection of being a cruel and unusual punishment. But to enforce such a regulation in any other manner than as a punishment for a specific crime, whereof the defendant has been duly convicted, would clearly be a violation of the right of personal liberty guaranteed by our national and state constitutions.²

In addition to the duty of patrolling and the duty of making arrests when necessary, the policeman who is performing regular police duty has a large number of minor official duties to perform. While on patrol duty in the night time policemen are required to examine the outer doors of buildings on their posts at the beginning of their tour of night duty and again at its termination, to prevent burglaries as far as possible and to discover promptly any which may have been committed. To prevent accidents patrolmen are required to report at the station-house anything of a dangerous character which they may have observed on the street, and, whenever an accident occurs, the policeman's report must include the name, age, sex, nationality, and residence of the person injured, whether married or single, sober or intoxicated, together with the date, the exact place of the accident, the nature of the injury, full particulars thereof, and a general description of the accident. Policemen must also collect the names

¹ 32 Vict. Chap. 99.

² Tiedeman, *American Law Review*, xix, 568.

and addresses of persons who witnessed the accident and submit the same with their report of the accident. The complete reports are sent daily to the corporation counsel, the city's law officer, through the office of the head of the police department, and no information concerning any accident, other than the fact of its occurrence and the name of the person injured, is kept on file at the precinct station-house or furnished to the public or to the press.

Policemen are also required to give such aid to the injured pending the arrival of medical assistance summoned by them as may be within their power, to report all street lamps found broken or unlighted, to obtain full evidence in criminal cases coming under their observation, and to abstain from interfering in civil cases except for the purpose of preventing an actual breach of the peace. Furthermore, policemen are required to enforce the rules of law for the prevention of cruelty to animals. At fires the policemen must assist the firemen in every way within their power. They are required to turn in the fire alarm and to assist the people in escaping from the burning building before the firemen arrive. After the arrival of the firemen it is their duty to establish fire lines and exclude from the immediate vicinity of the fire all who do not possess an official badge entitling them to be present at the scene of the fire. If necessary, they must also notify the occupants of adjoining houses of their peril and assist or compel them to leave their houses.¹

SECTION II. PERSONAL DUTIES

Personal Duties—Quasi-Official Duties—Private Life—In Court—Official Position—In Germany—In America—Intellectual Inferiority—Relation to Criminals—Need of Better Education.

The government demands of the policeman a higher code of conduct and morality than it demands of other citizens. This requirement, permissible since policemen

¹ *New York Police Manual*, 1908, Rule 74.

are servants of the public, and necessary because of the position of the policeman in the community, imposes upon the officer personal duties which in America are principally such as are governed by the rules of proper deportment among gentlemen. A policeman must appear at all times neat and cleanly in his person. His hair and beard must be neatly cut and trimmed, his boots polished, and proper regard must be paid to bathing. He must bear in mind the necessity of keeping himself in proper physical condition and the need of such regular and careful exercise as is conducive to that end.

Members of the force must at all times be civil and orderly. The use by them of profane or insulting language on any occasion is strictly prohibited. When asked a question they must not answer it in a curt or careless manner, but with all possible attention and courtesy, at the same time avoiding as much as possible entering into unnecessary conversation. They must give in a respectful manner their names and numbers to all persons who desire them. Members of the force are strictly forbidden to drink intoxicating liquors while on duty or while in uniform at any time, and, furthermore, they are forbidden to enter any public barroom or drinking house in uniform except in the discharge of duty. Nor are they permitted to use tobacco in any form while in uniform.¹

In addition to the duties of a purely personal character imposed upon patrolmen by the police regulations, they are also required to regulate their conduct in certain particulars where it is necessary that they do or refrain from doing certain acts for the maintenance of police discipline and the proper performance of police duty. For example, since courtesy among members of the force as well as respect for superior officers is indispensable to discipline, every member must guard himself against envy, jealousy, and other unfriendly feeling, and respect for superiors in rank should not be confined to obedience when on active

¹ *Baltimore Police Manual*, Rule 28.

duty, but should be maintained on all occasions. Every member of the force on meeting one of higher rank must promptly offer the prescribed salute, which must in all cases be returned immediately and respectfully. No member of the force is permitted to borrow money of, loan to, endorse for, or become surety for any other member of the force, since such conduct is prejudicial to good discipline. Officers are also required to pay all their just debts promptly.

In their relations with criminals they are expected to live up to a high code of morality. They must not wilfully maltreat or use unnecessary violence to any person, nor be concerned directly or indirectly in making any compromise or arrangement between persons charged with any offense and those who have made such charge, with a view to permitting the accused to escape the penalties provided by law. Any policeman who has any part in such compromise or arrangement, or has any knowledge thereof, and fails to give information to his superior officer is subject to official discipline. Members of the force are not permitted to search or act as witness to the search of any person in any place other than a station house, unless such search be made for deadly or dangerous weapons suspected to be upon the person of a prisoner. They are not permitted to communicate, except as directed by their superior officers, any information respecting their official instructions. They are especially forbidden to give to any person any intimation or information which might aid him to escape from arrest or punishment, or facilitate the disposing or secreting of property stolen or embezzled. Members of the force are also prohibited from becoming bail for any person under arrest, or recommending a lawyer to any prisoner.¹

The police regulations in America do not interfere very much with the private life of the policeman. The policeman, it is true, is constructively on duty at all times,

¹ *Baltimore Police Manual*, Rule 28.

but he is in normal times permitted to spend a considerable portion of each day with his family. Except for the fact that he may be called upon in times of serious tumult to remain on active duty throughout the day and night and the further fact that the frequenting of houses of ill-fame or other grossly immoral conduct subjects him to trial and punishment, his private life is not regulated or interfered with by his administrative superiors. He is not required to live in the station house, if unmarried, as in London,¹ nor is he required to obtain the permission of his administrative superiors before he contracts a marriage, as in Vienna.²

This regulation in Vienna has some advantages; it prevents policemen who do not possess sufficient means to support a family from marrying, and also prevents them from marrying women of bad character. A police officer who is encumbered by contracting such a marriage has undoubtedly seriously impaired his efficiency, but Americans prefer to assume such slight risks rather than interfere unduly in the private affairs of their policemen. In one respect, however, experience has shown that it is absolutely necessary for the police department to regulate the private activity of the policeman. Policemen, though protected in their right to entertain their political opinions, are not permitted to attend any primary or political meeting held for the purpose of making nominations or promoting the election of any public officers, or for electing delegates to any political convention; neither are they permitted to be delegates to any such convention. Members of the force are also not permitted to be members of or connected with any political club or any association whose objects may have reference to politics. They are required at all times and at all places to avoid entering into political or religious discussions of a character which

¹ *Instruction Book of London Metropolitan Police*, Section ix.

² Verordnung der Nieder-österreichischen Statthalterei vom 9. Februar 1851.

may lead to recrimination and the use of intemperate language.¹

All policemen are required to appear in court more or less frequently for the purpose of giving evidence against persons arrested by them, and it is necessary for the proper and impartial administration of justice that their conduct be gentlemanly. Policemen, when appearing in court, are accordingly required to be clean, neat, and punctual. They must have the cases in which they are complainants properly prepared, the witnesses present, and all property which is to be used as evidence suitably arranged for presentation to the court. The utmost respect and attention must be paid by them to the magistrate at all times and, when giving their evidence, they must speak calmly and explicitly in a clear, distinct, and audible tone, so as to be easily heard by court and jury. They must give their evidence with the strictest accuracy, confining themselves to the case then before the court and neither suppressing nor overstating the slightest circumstance with a view to favoring any person, or from ill-will to either side.

When cross-examined, they must answer with the same readiness and civility as when giving evidence in support of the charge, since the ends of justice are best subserved by their showing a desire simply to tell the whole truth, whether it be in favor of or against the prisoner. When the police are sufferers from injuries received or are giving evidence against those whom they believe to be guilty, it is especially necessary that they should not allow any feelings or wishes as to the decision of the case to influence them. Policemen are not permitted to begin a civil or a criminal action against any person on their own behalf until they have received the permission of the head of the police department, nor can they testify in any civil or criminal action unless they have been legally summoned or have received permission or an order from a superior

¹ *Baltimore Police Manual*, p. 43.

officer.¹ When suits or proceedings are instituted against members of the force as such, they are entitled to petition the head of department that counsel be provided for their defense.²

In European countries the policeman is universally respected as the representative of the sovereign. Although fear is undoubtedly an important component part of this respect, the confidence which the public has in the police is seldom betrayed by the latter. Cases of attempted blackmail or of other dereliction of duty, involving moral turpitude on the part of the police, are so infrequent that they may be considered as negligible. For example, in Germany, the police, when they are criticised at all, are criticised for their harshness or severity, but are seldom called upon to explain corrupt acts. The explanation of this condition of affairs must be sought not only in the character of the personnel of the police force but also in the *esprit du corps* of the police.

From the lowest *Polizeidiener* to the highest *Polizeidirektor* each man has had the benefit of a good education fitting him for his position, each man has been selected after a careful examination of his personal and his family history, and each man knows that although he is as an officer exempt from the jurisdiction of the regular courts, any dereliction of duty on his part, particularly if it amounts to a crime involving moral turpitude, will be punished by the administrative court having jurisdiction of the case not only by fine and imprisonment but also by the loss of his career. Conviction by an administrative court results not only in his dismissal from the police force but will constitute such a blot upon his character, as inscribed in the police records, that it will be exceedingly difficult for him to secure any other honorable employment in Germany.

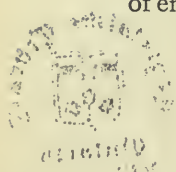
This characteristic of German life is not confined to police administration; it permeates the whole field of

¹ *Boston Police Regulations*, Rule 42.

² *New York Police Manual*, 1908, Rule 29.

municipal government and it is not confined to municipal government alone nor even to public administration generally, but applies as well to private activities of every kind. Every man is trained almost from birth for a certain occupation, which is generally determined by the social position and occupation of his parents. The fact that every man in Germany knows, not only that his promotion will be dependent entirely upon his individual efforts and proficiency and can be influenced but little by outside circumstances, but also that any serious criminal dereliction of duty on his part will result not merely in his losing his position but also in his losing his career,—in his becoming a social outcast, unable to secure any other favorable position, both because his previous offence stands against him on the police records and also because he is unfitted for any other position in life,—this fact furnishes the clue to that remarkable *esprit du corps* which we notice particularly in German municipal administration. Where every man is well prepared for his work by long and careful training and knows that his promotion is dependent on his own efforts and that any serious dereliction of duty will cause his ruin, he is certain to perform his duties with great care and it is only natural that his shortcomings, if any, will be due to overzealousness rather than to a shirking of his duties. This is the official position of the policeman in Europe and particularly in Germany.

A critic of American police conditions once remarked: "The poorer classes fraternize with the policemen, the middle classes keep aloof, and the upper classes despise them." This criticism may seem unduly harsh upon a superficial examination, but if we analyze the personnel of the police forces of some of our large American cities, we may find some causes which would tend to justify the criticism which we have quoted. From a legal standpoint the policeman is simply an officer possessed only of such powers as are conferred upon him by statute for the purpose of enabling him to perform his official duties. He is directly

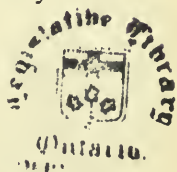


amenable to the jurisdiction of the ordinary courts for any offences which he may commit and this places him legally upon an equal footing with the great mass of citizens.

Accordingly, since the policeman enjoys no legal superiority in America, he must secure his pre-eminence either by his social, his physical, or his intellectual superiority. Men who have enjoyed the benefit of a good general education are deterred from entering the police service in America, both because of the inadequate salaries ¹ as well as because of the generally undesirable character of police work. The life of a policeman is an indolent and monotonous life in its daily routine and, although it cannot be denied that it calls for a display of courage and heroism at times, the policeman cannot himself influence the occurrence of occasions on which he can distinguish himself. Furthermore, although he is rewarded for meritorious acts by medals, honorable mention, newspaper praise, and credit on his efficiency record, which is given weight when he applies for promotion, yet it is undoubtedly true that people generally regard the performance of acts of heroism by the policemen merely as acts within the line of their duty for which they are paid. This lazy monotonous routine of the policeman's life, enlivened now and then by the spice of danger, does not attract into the ranks of the police men who would in private life attain distinction by their efforts; it serves rather to attract the man who desires a position requiring only a minimum of work, even though such a position involves considerable personal risk. This class of men is generally found among the poorer people,—drivers, motormen, porters, laborers, and the like. This would seem to substantiate the first remark of our critic,—that the poorer classes fraternize with the policemen,—since the policemen are of their own social class.

But, although the policeman in America can secure no pre-eminence by his social superiority, he certainly

¹ *Washington Police Report*, 1905.



secures a kind of pre-eminence by his physical superiority. It is not an empty boast which attaches the title of "The Finest" to the policemen of New York. It is doubtful whether there is any body of municipal police in the world which is selected with more care from the point of view of physical efficiency than the New York police. And what is true of the New York police is true, to a slightly lesser degree, of the police in most of the larger American cities. It is this physical power of the police which causes the middle classes to keep aloof from the policemen. Fear is undoubtedly the principal cause of this aloofness.

The explanation of the attitude of the wealthy toward the police is slightly more complex. The fact that snobbishness may and probably does to an appreciable extent cause the richer classes to despise the police in America would seem to reflect more upon the character of the despiser than upon that of the despised. But the fire departments in American cities select their personnel from the same class of society and have duties which are in many respects similar to those of the policemen, and yet the firemen seem to be universally respected. This shows that the low opinion in which the American policemen are held is due more to their intellectual inferiority than to anything else. The fireman requires little intellectual power and much physical ability; he possesses the latter and is respected. The policeman requires intellectual ability in addition to physical power and, lacking it, he is not looked upon with true esteem by any class of the community. Until we make the policeman's work a profession and provide for advancement in the ranks by transfer from one city to another as well as by promotion in the police department of a single city, we cannot hope to influence men of intellectual ability and general education to make the police business their lifework and the subject of critical study from the lowest rung of the ladder.¹

The police officer may assume any one of three possible

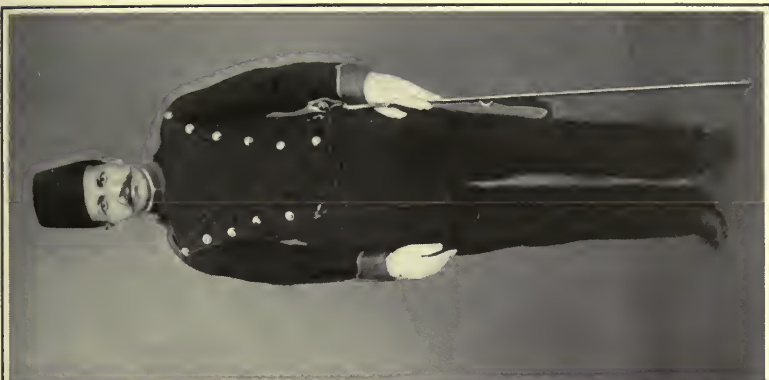
¹ *Independent*, li, 3409.



Russian Policeman



Norwegian Policeman
FOREIGN POLICE OFFICERS



Turkish Policeman



attitudes toward the criminal. He may be on terms of enmity, on terms of intimate friendship, or on terms of business friendship with the criminal. The first impulse of an upright individual on meeting a professional criminal is one of enmity. The professional criminal is at war with society and he can scarcely be surprised if the members of society reciprocate by treating him as an enemy. Yet it is easily apparent that the police officer who considers the professional criminal merely as an enemy cannot attain to the highest professional efficiency. Every individual must in the nature of things lack sympathy for his enemy, since otherwise that individual would not be his enemy; and if a policeman is not in sympathy with the professional criminal, he cannot study his ways so as to be able to cope with him successfully.

The attitude of intimate friendship, however, is even worse than that of bitter enmity. The professional criminal is quite generally a "*bon camarade*." He acquires his money easily and is not averse to spending it freely, particularly if he may thereby incidentally procure protection. Then, too, there is something base in a man who inveigles himself in the confidence of another for the purpose of betraying him. Finally, it is difficult enough for an upright police officer to do his duty and to turn a deaf ear to the hard-luck stories which the arrested criminal can so skilfully recite; for an intimate friend of the criminal it is almost impossible to do so. The ideal relationship which the policeman should maintain toward the professional criminal is one of business friendship. He should study his habits of life, his personal character, and his business methods as carefully as the hunter studies the character and habits of the animal he hunts. He should become intimately acquainted with the criminal's inner consciousness and his point of view; in no other way can he hope to develop skill in defeating his criminal purposes. And finally his general relationship to the criminal should be simply that of one keen, active, and alert intellect

pitted against another intellect equally keen, equally active, and equally alert. When the police officer under such circumstances succeeds in making an arrest, neither he nor the arrested criminal will feel any personal ill-will, but rather each will feel that he has played a game—the game of business and of life—and that the better and more skilful man has won.

In considering the qualifications required of candidates for appointment as police patrolmen, we noticed with what scrupulous care the examiners inquire into the candidate's physical efficiency, and we also learned that the inquiry into the candidate's intellectual fitness is generally confined to a short examination in the common branches. In the professional training received by the policemen during their probationary period, we noticed again that the training is principally in the duties of their position, and that the intellectual training is confined to instruction in the rules and regulations of the department by the obsolete method of catechetical instruction. It is certainly true that the police officer must possess physical powers rather than intellectual powers, that he must act rather than think, but a moment's reflection will convince anyone that he must think as well as act.

It is this element of individual discretion which distinguishes the police officer from the soldier. The soldier is merely a part of a great military machine; it is his duty to obey the orders of his superior without individual reflection. The policeman, on the other hand, does not always nor even generally act under the immediate supervision of his superior officer and, accordingly, he must himself determine by the exercise of a sound discretion whether he shall act or not, and if he decides to act, what he shall do and how he shall do it. To fit him for the performance of this important function the ideal police officer ought to receive a professional training similar in some respects to that now required of applicants for the position of probation officer,—a good secondary education

followed by a special course of study in sociology and the special problems of police duty. It is probably impracticable to demand of policemen such an education at the present time as a condition precedent to appointment, but, bearing this ideal in mind, we can improve the present unsatisfactory intellectual ability of the police officer in two respects,—by supplying to the police officers during their probationary period suitable instruction by competent teachers in place of the old-fashioned catechetical instruction, and by offering inducements to men of good general education, high-school graduates and college-bred men, to enter the higher ranks of the uniformed force and make the police business their lifework.

CHAPTER V

SPECIAL DUTIES

"Beneficium accipere libertatem est vendere"

SECTION I. SPECIAL FUNCTIONS

Special Equipment—Mounted Police—Qualifications and Duties—Harbor Police—Doormen—Matrons—Selection—Physical Examination—Duties—Surgeons—Official Duties—Sick Members of Force—Applicants for Appointment—Periodical Examinations—Compulsory Retirement—Its Dangers—Detectives—Method of Operation—Qualifications—Organization—Central Office Force—Central Aid to Local Police—In United States—Selection—Tenure—Unsatisfactory Character—Remedy—London Detectives—Duties—Protection of Private Rights—Method of Operation—Periodical Physical Examinations in American Cities—Detective Forces of American Cities.

FOR the proper performance of certain duties which devolve upon the members of the police force special equipment is required. Thus, the naval police of the seaport town, commonly called harbor police, require boats and other naval supplies for the efficient performance of their duties, while many officers require horses or bicycles to enable them to attend to their duties. Policemen requiring horses for the proper performance of police functions may be divided into three classes,—rural police, park police, and traffic police. The subject of rural constabulary is one which has not been given much attention in the United States, chiefly because the comparatively sparse and peaceful population has not made the need of a numerous, well-trained, professional, rural constabulary much felt. In the countries of continental Europe the denser population

has rendered the establishment of a rural constabulary absolutely essential and these police forces are generally patterned after the French *gendarmerie*. The policemen are often mounted on horseback, because the large territory to be covered by each individual policeman renders it impossible for him to perform his duties efficiently on foot. In the suburban districts of cities the same problem of long individual beats is met by the same solution,—the employment of mounted police officers. In the urban districts, on the other hand, the duties of the police officer are so numerous that the posts must be shortened in length and the mounted officer is not only not needed, but he is unable to give that intimate personal attention to his duties which the man on foot, who is unhampered by the care of his horse, can give. Outside of the suburban districts, therefore, which are essentially rural districts with rural conditions, the only need of mounted police officers in a municipal police force is for the regulation of street traffic.

The same principle of police administration,—that policemen to be efficient must be so equipped that they can mingle freely and unhampered and on a perfect equality with the citizens,—renders the employment of mounted police necessary in the regulation of street traffic. The vehicular traffic on the street is more difficult to regulate than are the pedestrians, and it is easily apparent that a policeman on foot is not properly equipped to regulate such traffic. Such a police officer, when stationed at a fixed post commands little respect, since he can be easily pushed aside by a driver who desires to disobey the traffic regulations. Moreover, in attempting to arrest offenders, the greater speed which the offenders can attain in their wagons or automobiles makes it extremely difficult and in many cases impossible to make an arrest. Where the principal duty of the traffic regulator is the apprehension of those who violate the municipal speed regulations, police officers equipped with bicycles or motor cycles can perform their duties as well as or better than men mounted on horseback. In some

cases three or four dismounted men can be stationed at a fixed post to regulate traffic, if they are assisted and supported by one mounted man or cycle policeman, who can pursue offenders and lend his moral as well as physical support to his brother officers.

But many of the duties of the traffic police require the assistance of the horses on which the policemen are mounted. A single policeman mounted on an intelligent trained horse can drive back a mob of people more easily and more efficiently than a squad of policemen on foot. The constituents of every mob have an instinctive dread of the iron-shod hoofs of the horse, which in addition has been trained to swish his long tail in the faces of the people in a most discomfoting manner. Similarly, in the pursuit and capture of a runaway horse, although a police officer mounted on a motor cycle may be able to attain a higher speed than an officer mounted on horseback, he will generally be unable to perform his duties as efficiently, because the horse of the mounted man can assist him materially in overcoming the runaway horse by wedging his body against the runaway in such a manner that the horse's speed will be quickly checked. The third class of mounted police officers found in municipal police organizations are park policemen. Their duties are either those of rural police officers or of traffic regulators, and require no special mention at this point.¹

No special qualifications are required of police officers assigned to mounted police duty, excepting that no officers ought to be selected for this duty who are not able to ride and manage a horse, or who are heavy in weight. A heavy man should not be assigned to the mounted force, both because such an assignment may tend to increase his obesity and injure the horse which he rides, as well as because of his general inability to perform efficient police service which requires active muscular exercise.

In addition to the general police duties required of all

¹ McAdoo, *Harper's Weekly*, xlix, 530.

members of the force, the mounted officers are required to care for their horses. While patrolling their beats they are forbidden to ride faster than at a rapid walking pace, and in going to and from their posts they are not permitted to proceed faster than at a trotting pace. They are expressly forbidden to permit their horses to go at a canter or running pace unless some special emergency urgently demands great rapidity of motion. Mounted officers are furnished with extracts from the United States Army Drill Regulations containing suggestions as to the proper treatment of their horses, and they are required to take full care of their horses while in the stable as well as while on the street. All grooming, sponging, drying, and feeding must be done by the policemen, and they are held responsible and subjected to discipline for any injury resulting to the horses from their negligence.¹ Officers equipped with bicycles or motor cycles perform duties similar to those of the mounted police and are likewise held accountable for the proper care of their machines.²

The harbor police or naval police is charged with the duty of preserving order, preventing the commission of crimes, and arresting offenders on the navigable waters within the jurisdiction of the city. No special qualifications are required of police officers assigned to this duty, excepting that a wise administration of the police department would seem to require that members of the police force who have served in the navy or merchant marine be preferred in making assignments to this branch of the service and that no officer be assigned to the harbor police unless he be able to swim. For the navigation of the boats of the harbor police a boat's crew of masters, engineers, seamen, firemen, and stewards is provided and, although the commanding officer of the uniformed police force on each of these boats is responsible for the conduct of all on board and is in general command of the boat, he is expressly forbidden

¹ *New York Police Manual*, Edition of 1908, Rule 52.

² *Ibid.*, Rule 51.

to interfere with the master or engineer while these are engaged in performing their professional duties, confining himself exclusively to the direction of the general object to be attained and leaving it to the discretion of the officers of the crew to carry out his directions. Thus, the commanding police officer will order the boat to proceed to a certain point but the course to be taken in proceeding to that point will be determined by the master or pilot, whose discretion cannot be interfered with by the police officer in matters relating to the navigation of the vessel.¹

In addition to those officers of the uniformed force who are provided with special equipment for the proper discharge of their police duties there are police officers who are specially selected and appointed to the force for the performance of certain specific police duties. These officers with special duties may be divided into four classes: Doormen, matrons, surgeons, and detectives. Doormen or station-house keepers are the officers of the department who are charged with the care of prisoners while the latter are temporarily detained in the precinct station-houses. In many of the American cities these men are civilian employees, but the tendency at the present day seems to be to make them officers and members of the uniformed force. Yet even where they are officers, both the physical and the mental qualifications required for appointment are distinctly less rigid than in the case of the regular patrolmen. The mental test is a very brief examination in the most rudimentary subjects of the elementary school curriculum and the rigid requirements of the physical examination for patrolmen as regards age, weight, height, and muscular development are considerably relaxed.

Frequently candidates for appointment as patrolmen, who are unable to meet successfully the exacting requirements demanded of applicants for that position, become police doormen. The position of police doorman is not one which naturally attracts a desirable class of applicants.

¹ *New York Police Manual*, Edition of 1905, Rule 15.

The duties of the doorman are essentially those of a jailer and a janitor. His duties include almost all of the undesirable characteristics of the patrolman's duties without any of the attractive features. His official duties bring him into contact only with the scum of society, and the nature of his duties demands harshness and severity in the treatment of many who are entrusted to his care. As a result of these circumstances the doormen are men who are unsuited to influence their prisoners favorably. They are efficient as repressors rather than as reformers. In fact throughout the entire police organizations of modern Europe and America many favorable opportunities for attempts at reformation seem unconsciously to be neglected.

But although our police organizations seem to treat male prisoners with harshness and with severity, we are more considerate in the treatment of female prisoners. It was largely to the coarseness and brutality of the average police doorman that we owe the introduction of police matrons. Even those who advocate the employment of physical force to overcome the actual resistance of a male prisoner and are not averse to making such an impression upon the prisoner that his station-house experience may serve as a deterrent, are unwilling to adopt the same measures in the case of women. The criminal law makes no distinction between the sexes and punishes offenses committed by women in the same manner and with the same penalties as similar offenses committed by men. Yet public decency and morality are shocked and offended by the herding of drunken and dissolute men and women in common cells or the searching of female prisoners by coarse police doormen.

The agitation for the employment of police matrons¹ was started in a city in the State of Maine by the Women's Christian Temperance Union. As is the case with most reforms, the idea of employing women to care for female prisoners was at first ridiculed and scoffed at. Experts

¹ *Lend a Hand*, iii, 161; iv, 126.

called attention to the fact that the class of women who are most frequently arrested consists of individuals who are dangerous and hard to manage, and that it was physically impossible for any single woman to manage these prisoners, since it often required the combined efforts of three or four stalwart policemen to carry such women bodily to the cells. With their characteristic enthusiasm the Women's Christian Temperance Union asked for permission to try a police matron at their own expense as an experiment. The permission being granted, a club-woman volunteered her services for the work and the experiment proved an unqualified success. Other women's clubs and philanthropic associations joined in the movement and soon the larger cities began to employ police matrons at a regular salary.

At the present day there is probably no city of any size in the United States which does not employ at least one police matron, and most of the large cities have a police matron on duty at all the principal police stations. In the smaller cities the police matron remains at her residence and is called to the police station whenever her services are required; in the larger cities, on the other hand, there is a police matron on duty at the principal station-houses at every hour of the day and night, thus requiring the employment of three matrons for each station-house, each matron serving eight hours. Precincts which receive a comparatively small number of female prisoners have no matron but are required to send their female prisoners to the nearest police station employing a matron.

Candidates for the position of police matron are in the smaller cities generally selected by the chief of police, because they are the widows of police officers or because they have been recommended for the position by a woman's club or a philanthropic organization. Each of these methods of selection would seem to be capable of justification. The widows of police officers, particularly if their husbands were killed in the discharge of duty, are entitled

to some recognition and assistance from the municipality which their husbands served, and such widows after having lived as the wives of police officers for a number of years will probably have obtained from the atmosphere of their homes a greater ability to act as police matrons than the average woman possesses. On the other hand, the philanthropic worker, particularly if her experience has been field work rather than along academic lines, will be still better trained for the performance of the duties of a police matron, since the duties of this position require investigation into the prisoner's antecedents and attempts at her reformation quite as much as physical subjection.

In the largest cities, where the number of matrons employed makes such a system feasible, the police matrons are appointed after being subjected to a competitive civil-service examination. The intellectual qualifications of the candidates are tested by a brief examination in writing, spelling, and arithmetic and by a paper on "duties." The latter paper is not intended primarily to test the candidate's acquaintance with the official duties of the police matron as enumerated in the rules and regulations of the department, but rather to test her common sense in emergencies. Thus she is asked what she would do to a woman apparently drowned, or how she would search a female prisoner, and similar questions not requiring technical knowledge, which is more easily obtained by actual police experience.

Candidates for the position of police matron are also subjected to a physical examination, which, however, is so rudimentary as to be hardly sufficient, it would seem. Although the physical examinations of female applicants are regularly conducted by female physicians, no civil-service examining board has as yet attempted to subject female applicants to a thorough physical examination, with the exception of the United States Civil Service Commission, which subjects applicants for the position of female printer's assistant to a thorough physical examination.¹

¹ *American Physical Education Review*, xii, 325.

Prudishness seems to be the principal cause of this condition.

The examination of police matrons is quite generally confined to a perfunctory stethoscopic examination of the candidate's heart and lungs over clothing and underclothing, a general inspection of the candidate's complexion and robustness, and an inquiry into her personal history as narrated by herself. When we recollect that the detection of heart murmurs, which are frequently symptoms of dangerous heart disease rendering the subject liable to sudden death, is impossible when the stethoscope is placed over the clothing, that the complexion is not always a satisfactory criterion by which one can judge of the subject's general condition of health, that a subject having an unsatisfactory personal history is almost certain to conceal that fact from the examiner, and that the regularity of the candidate's periodicity of sexual function is not, so far as the writer has been able to ascertain, made the subject of any systematic inquiry, although, if irregular, it may render the candidate an invalid for a portion of each month,—it is apparent that the physical examination of police matrons is not as thorough as their duties require.

In considering the duties of police matrons we must remember that they have been introduced into the American police system for the purpose of protecting female prisoners from coming into contact with the police doormen, who from the very nature of their duties must be more or less coarse and unrefined. Women prisoners are confided to the care of the police matron as male prisoners are turned over to the doorman. To insure a proper regard for decency, women prisoners are required to be kept in cells entirely separate from those for male prisoners, so situated that communication between the men and the women is impossible and having locks different in size and in pattern from all other locks in the station-house. The keys to the women's cells must always be either in the possession of the matron or at the sergeant's desk, and no officer of the

police force other than the captain is permitted to visit the women's cells under any circumstances. The captain can visit them only on strictly police business.

Female prisoners who are sick can be attended to only by the matron and an ambulance surgeon if the matron considers it necessary to call a surgeon. Similarly, whenever for police reasons it is deemed necessary to search the person or clothing of a female prisoner the search must be made in such a manner as to avoid publicity as much as possible and must in every case be made in the matron's office and while she alone is present. But although women prisoners are thus to be confided to the exclusive care of the matron, she is permitted to call upon the male members of the police force when she requires assistance to obtain physical control of her prisoners. Such assistance is ordinarily confined to holding a rebellious female prisoner, while she is being searched, or to carrying her bodily to her cell when she is drunk or violently disorderly. Children of both sexes under the age of fourteen are also generally confided to the care of the matron while they are detained in the precinct station-house, but the modern tendency would seem to be to remove them as soon as possible from the station-house and place them temporarily in the care of some philanthropic society, such as the Children's Aid Society until their cases have been disposed of by the courts. Police matrons, while on duty, are required to wear a uniform consisting of a blue or black blouse and skirt standing two inches from the ground, and they must wear their shield of office on the left breast.¹

Police surgeons have a two-fold duty,—a public duty and an official duty. Their duty to the public is discharged by caring for those who become suddenly ill or are injured in the street, or who, becoming ill in their homes, are too poor to pay for medical attention. The care of such individuals has in the historical development of police administration in the United States devolved upon the police.

¹ *New York Police Manual*, Edition of 1908, Rule 47.

chiefly because the police department was the municipal department which was best organized promptly to act in cases of emergency. At first the law empowered the head of the police department to register at each precinct station-house the names of one or more physicians who were to be summoned, when their services were required, and who were to be paid for each call. Such a system proved inadequate and unsatisfactory when the cities grew and the number of such calls increased. It also led to abuses. These duties of poor-relief,—and that is what this ministering to the sick and injured might properly be called,—were next included among the prescribed duties of the police surgeon, whose office had been previously created for administrative reasons.

The official duties of the police surgeon, for the performance of which the office was originally created, were the physical examination of candidates for the police force, the diagnosis and professional treatment of members of the force who are ill or injured, and the physical examination of candidates for retirement or pension. It was essential that each of these duties be performed by an officer of the police department. Candidates for appointment are, as we have seen, examined physically by the civil-service commission in the larger cities, while in the smaller cities and in those cities which do not have an independent civil-service commission they are examined by the police surgeons. Even in the larger cities the police surgeons frequently re-examine those who have passed the physical examination conducted by the civil-service commission, partly as a check against fraud but more particularly because physical defects may and often do develop during the period intervening between the passing of the civil-service examination and the actual appointment. This is all the more likely to be the case where policemen undergo an elaborate course of training to hide their physical defects before taking the civil-service examination, which they are unable to do because of lack of timely notice when they are summoned for the police surgeon's examination.

To check abuses which experience has shown will be likely to creep in if such safeguards are lacking, the regulations quite generally provide that no police surgeon shall receive any gratuity or compensation, directly or indirectly for any official examinations which he may make, and that no person be admitted under any circumstances to the room in which the examinations are conducted except such clerical assistance as may be assigned.¹ Some cities as an additional safeguard require that if any applicant is rejected, the cause of his rejection be published. It is doubtful whether such a provision serves any useful purpose, since it is questionable whether an applicant who is improperly rejected could sue the surgeons in tort, and it is well known that the surgeons frequently do not state the true cause of rejection in their certificates, substituting flat foot or valvular disease of the heart, for example, for venereal disease.

Just as it is essential that the physical examination of candidates for appointment be placed in the charge of police surgeons, who are amenable to administrative discipline for misconduct, so it has been found necessary to place the care of sick police officers similarly in the hands of these police surgeons. When a policeman becomes sick he must report to the nearest station-house and a police surgeon is sent to his home. The duty of the surgeon is two-fold,—to determine whether the illness of the policeman is so serious as to incapacitate him for the performance of police duty and to treat him professionally with a view to restoring him to health and duty at as early a date as possible.

Experience seems to have shown that neither of these duties is performed with perfect satisfaction by private physicians. In large cities it is always possible to find physicians who will for a consideration issue certificates of physical disability where no disability exists or where the disability is simulated, and it is quite probable that such physicians

¹ *New York Police Manual*, Edition of 1905, Rule 6 i.

might also treat their patients in such a manner that their disability might continue as long as possible. It was the occurrence of such incidents of unprofessional conduct on the part of physicians which originally led to the establishment of the position of police surgeon and all the other duties which the police surgeon performs to-day have been added more recently.

Police surgeons must treat policemen under their professional care with the same diligence and skill that they would bestow on their private patients and under no circumstances must they permit the demands of their private practice to interfere with the performance of their official duties. They are forbidden to charge, receive, or take any compensation for their official services, and each surgeon is required to report violations of this regulation which may come to his notice, to the head of the department for discipline.¹ In most cities police surgeons have at one time or another also been called upon to treat professionally private citizens who have been injured on the streets or who are too poor to pay for medical attention. In some of the American cities this is still included among the duties of the police surgeon, but in a number of the larger cities it has been found advisable to confine the police surgeon exclusively to the performance of administrative duties and to let the department of charities attend to the cases of the indigent sick and of those accidentally injured on the streets.

Policemen are, as we have seen, subjected at the present day to a physical examination in almost every American city when they make application for appointment. In the smallest cities these examinations are conducted by private physicians paid by the applicant. In other cities they are made by the city physician, an officer in the smaller cities corresponding to the health board in the larger cities. But wherever the city police department possesses a police surgeon these examinations are almost invariably made

¹ *New York Police Manual*, Edition of 1905, Rule 6 m.

by him, since only in this way can the necessary uniformity and protection against professional dishonesty be obtained. In the very largest cities it has even been found desirable to have these examinations conducted by two independent sets of examiners, each of whom can check the work of the other and thus prevent even the suspicion that any irregularity can possibly be practised in securing the acceptance of a candidate. In these cities the applicant is first examined by the physicians of the civil-service commission, and, if passed by them, he is again examined by the police surgeons. Not only may physical defects be discovered by the police surgeons which have been overlooked by the civil-service examiners because of lack of familiarity with police requirements, but defects may be apparent at the time of appointment which were not apparent at the time of the civil-service examination, either because they did not exist at that time or because they were hidden by careful preparation for the civil-service examination, of which due notice is generally given many weeks in advance.

After his appointment to the police force the policeman is generally not subjected to any physical examination until he makes application for a pension on the ground of disability. This is the general rule in the United States, but there are some exceptions. A few cities require a re-examination at the completion of the probationary period. This is extremely useful for the purpose of determining whether the actual performance of police duty has impaired the physical efficiency of the candidate. The patrolling of long posts, for example, frequently causes the arches of the feet of men who have previous to their appointment to the police force pursued sedentary occupations, such as clerkships, to break down, and such a condition practically disqualifies a policeman from performing efficient police duty. In a few Massachusetts towns policemen are employed for a period of three years and are given a physical examination at the expiration of each period of service.

TABLE 4. PERIODICAL PHYSICAL EXAMINATIONS IN AMERICAN CITIES.

CITIES. [In Order of Size.]	STRENGTH OF FORCE					HOURS OF SERVICE				PERIODICAL EXAMINATION			
	Total Strength of Force	Patrolmen.	Roundsmen.	Sergeants.	Captains.	Hours of Service.	Three Platoons.	Two Platoons.	Not Specified.	Periodical Examination.	Special Cases.	None.	Not Specified.
1. Chicago, Ill.	2600	2306	103	135	75	9					×		
2. St. Louis, Mo.	1200	100	100	12	12	12							
3. Baltimore, Md.	940	700	129	19	8	10					×		
4. Cleveland, O.	462	380	28	27	4	10					×	×	
5. Buffalo, N. Y.	726	607	39	43	13		×					×	
6. Pittsburgh, Pa.	470	410	20	10	5	9							
7. Cincinnati, O.	520	398	10	32	21	9				×			
8. Milwaukee, Wis.	331	306	16	6	1	11							
9. Detroit, Mich.	528	356		23	11		×					×	
10. New Orleans, La.	250	206	24	13	6	12						×	
11. Newark, N. J.	410	286	13	15	4	8						×	
12. Jersey City, N. J.	410	257	19	26	7	7					×		
13. Minneapolis, Minn.	199	133	17	5	6	11							×
14. Indianapolis, Ind.	168					10					×		
15. Providence, R. I.	300					7					×		
16. Kansas City, Mo.	244		25	8	6	12						×	
17. St. Paul, Minn.	166	140	8	5	1	9					×	×	
18. Denver, Col.	127					8						×	
19. Toledo, O.	135	113	8	3	1	8						×	
20. Columbus, O.	139			7	1	10				×			
21. Syracuse, N. Y.	121					8						×	
22. Fall River, Mass.	134	94		10	5	10						×	
23. Memphis, Tenn.	100	76	3	2	2	10						×	
24. Patterson, N. J.	104		13		1	8						×	
25. St. Joseph, Mo.	63	51	2		1	12						×	
26. Scranton, Pa.	72				1	9						×	
27. Lowell, Mass.	133	118	5	3	4	8						×	
28. Portland, Ore.	100	93	3		3	8						×	
29. Cambridge, Mass.	122	91	6	9	4	10						×	
30. Albany, N. Y.	157	116	16		5	6				×			
31. Grand Rapids, Mich.						8						×	
32. Dayton, O.													

In other cities policemen are re-examined whenever the chief of police thinks it is necessary or desirable and such examinations are usually ordered as a method of compulsory retirement.

Compulsory retirement on the certificate of a police surgeon that the officer is physically disqualified to perform the duties of a police officer has several advantages from an administrative point of view. In the first place, the chief of police may be reluctant to remove an old officer on charges and thus deprive him of his pension after long years of faithful service. In such a case retirement on a surgeon's certificate carries with it a half-pay pension, which will make it easier for the chief to do his duty and remove the officer who is incompetent or worse. In the second place, police officers more than any other public officials require that energy and ambition which is characteristic of youth and which is seldom present in men of advanced years. A police officer may not be actually corrupt or guilty of neglect of duty so that he can be removed on charges, and yet his age may render him an exceedingly inefficient officer. Frequently, too, the older officers of the force are the holders and supporters of professional traditions which are not conducive to good discipline. And finally, where as in New York the courts exercise a large power of review over the proceedings of the head of department in removing policemen on charges, a removal on a surgeon's certificate is much easier and much less likely to be reversed by the court, if regular and in accordance with the provisions of the statute, than is a removal by the more formal method of bringing charges against the officer.

Of course, such summary removals on the certificate of a police surgeon may be used by a corrupt head of department to get rid of men who are honest and unwilling to obey his commands. Yet this danger is not as great as it might at first sight appear to be. In the first place, an honest policeman under a dishonest and corrupt head of department cannot exert much influence for good. A policeman's

first duty is to obey and, if he has conscientious scruples against obeying the commands of his superior, the proper course for him to pursue is to resign his position and seek employment which will be less likely to endanger his moral character. Then, too, it would probably be extremely difficult even for a corrupt chief of police to obtain a certificate of physical disability from a board of police surgeons, who generally enjoy an independent civil-service tenure, in a case in which the officer examined is physically sound. Professional ethics will prevent physicians from giving such certificates and, even if they should violate the ethics of their profession by giving such a certificate, the officer affected thereby can probably be easily reinstated on the ground of fraud. The subject of physical examinations in the case of voluntary retirement for physical disability will be considered later under the head of police pensions.

The detective is a policeman who is detailed to duty in citizen's clothes for the purpose of discovering and arresting the criminal responsible for a particular crime. The work of the detective is essentially that of the spy and the class of men that are attracted to this work is such as one would naturally expect to find there. In the historical development of the police force the detectives were generally and almost invariably criminals who considered spying more profitable than the commission of felony. Such men naturally had little interest in promoting the ends of justice, which is really the only possible justification for the employment of paid spies. Such detectives went into the business in England for the purpose of obtaining the large rewards offered for the capture of criminals and in France for the political prestige and pecuniary rewards which successful service in the secret political police gave to these men.¹ In the United States at the present day the detective function may be divided into two closely related

¹ Clement, *La Police sous Louis XIV.* Delavau et Franchet, *Le Livre Noir.* Desmarets, *Témoignages Historiques.* Faligan, *Gouvernement Occulte de la France.*

categories—the prevention and the detection of crime.

The chief stock in trade of the detective is his knowledge of the criminal classes and this knowledge can be obtained only by associating on terms of intimacy with them. The business of catching professional criminals is reasonably simple. To begin with, each criminal has his haunts, and it is certain that sooner or later he will seek one of them. Most of these professional criminals make their money easily and spend it easily; the display of large sums of money very frequently directs attention towards them and leads to their arrest. There are many resorts which are frequented almost exclusively by professional criminals, and it is said that the police permit these resorts to exist because they are valuable points of vantage in the war against crime. Many of the professional criminals are addicted to the habit of smoking opium and this too frequently leads to their arrest.

The detective's work is a combination of mystery and hard grind. Mystery is a valuable assistance to the detective in his work and besides it is impressive; anything that is not understood is bound to be more or less impressive. Detectives are assisted by many persons who are not on the regular payroll of the city. Women and street boys are often employed to shadow suspects, because they are least likely to arouse the criminal's suspicions. Hack drivers also frequently give valuable assistance to the police, particularly in England and on the continent of Europe where their licenses are almost absolutely under the control of the police authorities; in the United States, on the other hand, a species of professional ethics, it would seem, keeps the hack drivers from giving information to the detectives.

Successful detective work does not, as so many seem to think, depend very much upon theory; it depends rather upon sound common sense, and of course chance plays a considerable part in the capture of many criminals. The detective may overhear a conversation in a street car or on the street, and if he has the necessary technical knowledge

and the required common sense, it may lead to the capture of an important criminal. Inspector McClusky, who was for many years the head of the New York detectives, is quoted as having said that the qualifications of the model detective are coolness, courage, patience, and perseverance, but above all he must have an analytical faculty. Men of limited education may be naturally endowed and may be able to get at the heart of things with much greater quickness than men who have enjoyed a much better education but who are conscious of the mechanical part of the reasoning process. There are such men on the detective forces of most of the large cities and, when they combine with this faculty a wide knowledge of criminals and a keen memory for faces, they are well qualified for their work, provided that they remain honest, and resist the many temptations which are thrust in their path. A good detective should be absolutely unemotional, with the impartial sense of a judge combined with the endless energy of an enthusiast; experience will do the rest.¹

Municipal detective forces are of three kinds: central office squads under a chief of detectives, precinct detectives or wardmen, and temporary detective details. Many of the smallest cities in the United States still cling to the old system of temporary details of uniformed police officers to detective duty in plain clothes. This system is an exceedingly bad one, not only because it is subject to all the evils and defects inherent in any system of details² but also because it is impossible for the detective officers under such a system to obtain that expert and specialized knowledge which it is absolutely necessary for the efficient detective to possess. Some of the smaller cities have recognized this principle and these employ a single detective officer with a permanent tenure.

The system of precinct detectives or wardmen is defensible only on the ground that there should be some detective

¹ *Munsey's Magazine*, xxiv, 728.

² Cf. Chap. V, Sec. 2, *infra*.

officer in each precinct who can attend promptly to minor criminal cases. It is, however, doubtful whether these precinct detectives can be defended in principle, since with quick means of communication by telephone and by rapid transit a detective from the central office can be summoned in a very short time and it is certain that in very many cases these precinct detectives have been prostituted to the function of levying and collecting blackmail for their captains. Since it is the special duty of the detectives to clear the precinct of professional law-breakers and since they operate in citizen's clothes under the immediate supervision of the precinct commander, it is easily seen how a dishonest precinct commander may use them for his personal profit without much danger of detection.

The best system therefore is that of the squad of central office detectives under the command of a chief of detectives. This is the system which is found throughout England and the continent of Europe and it is the system which is also found in the larger cities of the United States. It insures that expert direction which only a superior officer who devotes himself exclusively to the detective branch of the police service can give, and indeed this branch of the service is considered of such importance that the chief of detectives is in many cities of England and America the deputy chief of police or an officer of equal rank. Rural communities, small villages, and towns which cannot afford to employ a detective are at a serious disadvantage when an important crime is committed. The ordinary police officer, having little detective training or experience, has generally but little success in running down such serious offenders, and recourse must be had either to private detective agencies or to the efforts of private individuals who may be encouraged to engage in the work of detecting the criminal by reason of the large rewards offered by the individual who has suffered by the commission of the crime, or by the city or state in which the crime was committed.

Such a system for the detection of criminals by extra-

legal means has many disadvantages, and this fact has led to two distinct systems of central aid in detective work. In England the police force of the Metropolitan District of London, which is under the charge of the central government, has a standing offer to send one of its expert detectives to any city or rural district in England in which a serious crime of personal violence has been committed, for the purpose of detecting the criminal and all expenses connected therewith will be paid by the Metropolitan Police Department. In the case of crimes affecting property, however, the city or district calling upon the police force of the Metropolitan District of London must pay all expenses incurred in the sending of a detective officer to its assistance. Such a system would be manifestly impracticable in the United States. The United States Government is a government of limited powers and cannot thus interfere with the local affairs of the cities and towns, and the commonwealths cannot ordinarily do so because they have no police force at their disposal. The need for some system of detecting the criminals responsible for the more serious rural crimes was so acutely felt, however, in recent years that state detective forces have been established in two states,—Connecticut and Massachusetts.

These state detective forces consist of a small body of men,—generally about twenty or thirty,—under a chief of state police and it is the duty of this force to assist the local prosecuting officer or district attorney in arresting offenders and obtaining evidence for their conviction. The work of these state detective forces has been surprisingly efficient. The number of unsolved criminal mysteries has steadily decreased and rural communities, which before the establishment of these state police forces were more or less at the mercy of professional criminals who went from the cities into the rural districts, are now reasonably safe, while the degree of personal safety in urban districts has been raised as well.¹

¹ *Report, Connecticut State Police.*

TABLE 5. DETECTIVE FORCES OF AMERICAN CITIES.

CITIES.	STRENGTH			SEPARATE			APPOINTMENT						ORGANIZATION			PERMANENCY			
	Number.	Annual Salary.	Not Specified.	Separate.	Not Separate.	Not Specified.	From Force.	From Force or Outside.	By Commissioner or Board.	By Mayor.	By Mayor and Aldermen.	Not Specified.	Central Office Squad	Precinct Detectives.	Not Specified.	Permanent.	Detail.	Annual Appointment.	Not Specified.
1. Albany, N. Y.	5	\$1200	..	..	..	..	×	..	..	..	..	×	..	..	×	×	..	..	×
2. Baltimore, Md.	26	900	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
3. Binghamton, N. Y.	1	900	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
4. Bridgeport, Conn.	3	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
5. Buffalo, N. Y.	41	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
6. Cambridge, Mass.	..	..	×	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
7. Camden, N. J.	..	..	×	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
8. Charleston, S. C.	3	720	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
9. Chattanooga, Tenn.	2	1020	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
10. Chicago, Ill.	57	1200	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
11. Cincinnati, O.	20	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
12. Cleveland, O.	21	1323	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
13. Cohoes, N. Y.	..	..	×	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
14. Columbus, O.	14	1000	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
15. Covington, Ky.	1	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
16. Dallas, Tex.	..	..	×	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
17. Davenport, Ia.	4	840	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
18. Dayton, O.	5	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
19. Denver, Col.	14	1200	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
20. Des Moines, Ia.	6	840	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
21. Detroit, Mich.	20	1200	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
22. Duluth, Minn.	1	1080	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
23. Elizabeth, N. J.	3	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
24. Elmira, N. Y.	1	1020	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
25. Erie, Pa.	4	900	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
26. Fall River, Mass.	6	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
27. Fort Wayne, Ind.	2	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
28. Grand Rapids, Mich.	6	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
29. Harrisburg, Pa.	2	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
30. Hartford, Conn.	2	1100	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
31. Haverhill, Mass.	1	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×
32. Holyoke, Mass.	2	..	..	×	×	×	..	×	×	×	×	×	×	×	×	×	×	×	×

[illegible]

Another use which has been made of these state police forces is very interesting. Originally established for the purpose of detecting offenders against the law and particularly offenders against the state liquor law, the Massachusetts District Police, as the state detective force is officially called, although composed of but a handful of men, has succeeded in quelling serious labor riots which could not be handled by the local police force and which before the establishment of this district police would have necessitated the calling out of the militia. The rioters seem to respect the district police more than they respect the local police, whose members are their neighbors and their friends, and in addition it must be remembered that this district police consists of a body of trained specialists in the detection of crime,—men who have the entire power of the state behind them.¹

Detectives in the United States are chosen either by the chief of police individually or by means of civil-service examinations and their tenure is either permanent or at the pleasure of the chief of police. The entire tendency of modern public administration seems to be to limit the discretion of the appointing officer by prescribing civil-service examinations for entrance into the public service. This tendency is undoubtedly most wholesome, because it is ordinarily possible to test a candidate's fitness for a position by a mental examination, a physical examination, and an examination of his personal history. There are, however, some positions which it has not been deemed advisable to place in the classified service, subject to competitive examination. Among such positions are those which are confidential in character, such as private secretaries, and those which require highly expert knowledge which it is not possible to test by examination.²

Although the position of detective has not yet come to be recognized as one which requires highly expert knowledge

¹ *Reports, Massachusetts District Police.*

² Goodnow, *Administrative Law of United States*, 270.

which it is not possible to test by examination, it would seem that logically this should be done. A man's detective ability cannot ordinarily be tested by a written examination. Such ability is frequently displayed by a police patrolman in the ordinary discharge of his duties, and the best results would be obtained, if it were within the power of the chief of police to promote such a patrolman to the rank of detective. Such a man would have had a police experience which would prove invaluable to him in the discharge of his detective duties and in addition he would have proved his native ability for detective work.

Furthermore the tenure of the detective should not be permanent. His tenure should be dependent on the pleasure of the chief, which, in turn, should mean under an efficient police administration that the chief can reduce a detective to patrol duty whenever his work is inefficient. The position of the detective should be recognized as a position higher in rank and in salary than the position of patrolman and an assignment to this position should be recognized as a promotion for merit. Of course, the delegation of such powers over the detective force to the chief of police is fraught with danger, if the chief is dishonest or corrupt. But in the detective force, if nowhere else in the police administration, we must have thorough administrative efficiency or we might as well abolish the detective force entirely. Men who have made a careful study of the lives and methods of operation of professional criminals tell us unhesitatingly that the detectives in many of our larger cities share with these thieves the plunder which the latter succeed in obtaining.¹ Whether we believe these assertions, which seem to be supported by a fair amount of evidence, or not, the fact remains that the number of crimes which are neither prevented nor detected in American cities is probably larger than in the cities of any other civilized country of the world.

It is not to be expected that the police force will discover

¹ Steffens, *Shame of Cities*.

the criminal responsible for every crime committed nor even for every felony, and this can certainly not be expected in the United States where the constitutional safeguards for the protection of personal liberty place so many obstacles and hindrances in the path of the police. But the number of unsolved criminal mysteries is much larger than it should be under an efficient detective force.

In New York City, for example, there was until very recently no permanency of tenure for the chief of detectives, while there was permanency of tenure for the individual detectives. It is difficult to conceive of any system which is calculated better to accomplish administrative inefficiency. The chief of detectives under this system was a superior police officer, who had no time to make detective work his life work and who was removed from his position as chief of detectives and assigned to some other duty before he became fairly well acquainted with the routine of his office. The individual detectives not only had the time and the opportunity to become well-acquainted with detective methods, which they seldom did, but they also had time to become imbued with the traditions of the office, which were not always such as tended to administrative efficiency. Furthermore, there existed no power which could reduce them in rank or assign them to patrol duty if, as was often the case, they were inefficient detectives. Similarly there was little prospect for promotion. It is no wonder that under such conditions the New York detective force was unable to accomplish even reasonably good results.

With a detective force recruited by careful selection from the ranks of the uniformed force and with a tenure dependent upon their efficient performance of their detective duties, all need for special headquarters squads of detectives and for wardmen or precinct detectives would be gone. An efficient chief of a well-organized detective bureau would quickly divide his force into divisions to each of which would be assigned a particular form of crime, while, if a precinct commander desired a certain number of de-

tectives, they could be assigned to his precinct temporarily from the central office subject to the direction of the captain and subject to the disciplinary power of the chief of detectives.¹ It should be borne in mind that not all the detectives in the New York bureau were inefficient or incompetent; there were some very excellent men among them, faithful and able men who should have been encouraged and promoted. But under the system it was impossible for them to show their best ability; under the proposed system with a permanent chief of detectives, who has made detective work his life work, and with a tenure dependent on their own efficiency they would quickly rise and become prominent.

A few cities have already adopted these two fundamental principles of detective administration,—a permanent chief of detectives and a tenure for the individual detective dependent on good service. Notable among these should be mentioned the police service of Washington, which under the able administration of Major Sylvester has in so many ways become the model police organization in the United States. But as a general rule the detective forces in the United States have not reached any reasonable degree of efficiency, and this circumstance cannot be attributed entirely to the legal impediments offered by our constitutional provisions protecting private rights. That it must be influenced also to a large extent by bad administrative organization seems to be indicated by the fact that in England, which enjoys many of our constitutional guarantees, the detective force is much more efficient, particularly in the Metropolitan District of London.

The organization of the detective force of the Metropolitan Police Department of London is such as to make it a model of efficiency in a country in which the operations of the detectives are impeded as much by the provisions of the law protecting private liberty as in the United States. The whole detective force is under the command of an

¹ McAdoo, *Harper's Weekly*, 1., 547.

assistant commissioner, an officer of high rank and permanent tenure, and the force is organized like the uniformed police force, consisting of chief constables, superintendents, chiefs, first and second class inspectors, local inspectors, first, second, and third sergeants, and patrol constables. From time to time volunteers for the department are called for in the police orders and any sergeant or constable who wishes to become a candidate must make application in writing and be recommended by the superintendent of his division.

The volunteers are summoned for a personal interview by the assistant commissioner who is the chief of detectives, and a list is made of those who appear suitable, from which vacancies are filled as they occur. In every case the appointment to the criminal investigation department, as the detective force is called, is only probationary and, until confirmed, carries with it allowance only and no increase in pay. This probationary period is generally of three months' duration, but it may be extended to six, nine, or twelve months in the discretion of the assistant commissioner. If the probationer does not satisfy the necessary requirements, he is returned to the uniformed force, and this may occur at any time, even after the expiration of the probationary period. Promotions in the detective force which are made by the superintendents and chief constables are made strictly on the basis of fitness. The provision of the rules governing the detective force which has exerted a most excellent influence in raising the efficiency of the force is the regulation that, whenever a police officer of the criminal investigation department is reduced in rank for misconduct, such reduction cannot be for a specified period but must be an absolute reduction.

Diaries are supplied to officers of the detective force and these form a most valuable record of their conduct and official acts. They become the property of the police department, when filled, and can be used by the assistant commissioner or by any officer of the detective force.

General entries in these diaries are not permitted. When an inquiry is made the diary must contain a full statement of the purpose and the object of the inquiry, and similarly the object in view in visiting a certain place must be inserted. Impressions may be recorded and even matters not of a strictly official character may be entered in the discretion of the detective. The entry "patrolling" is not accepted as sufficient, because it is almost impossible that an intelligent police officer sees nothing worthy of closer investigation and notice.

The hours of duty and the district of patrol are constantly and frequently changed. The diaries must be frequently inspected by the local inspectors and superintendents, and they are also sometimes called for by the assistant commissioner. Erasures are of course strictly forbidden in these books. The general regulations governing the conduct of the detective officers are also interesting and valuable. They are required to obtain such knowledge of the criminal population and their habits as will enable the department to supervise their actions and thus render the apprehension of any offender more probable. It is hoped that in this way criminals will be deterred from the commission of crimes. This is not merely a printed regulation but it is carried out in practice as well.

The detectives are required to report themselves at regular intervals to their superior officers and are also required to make special reports of all their official acts and of testimony of any kind given by them in court. Officers are forbidden to apply for or receive from any private person any advance of money or even a reimbursement of expenses incurred. If money is required for expenses, application must be made to the assistant commissioner who is provided with money to meet such demands. The police employed in the detective department are forbidden at the request of individuals to make inquiries not connected with their police duties or to interfere with the private business of others, as by acting on their behalf or at the request

of a creditor who seeks to obtain payment from his debtor. Such inquiries and such interference are exceedingly improper and dangerous and any officer offending against this rule is dismissed or severely punished.

If an application is received for an inquiry to be made by the police in any matter which appears to be forbidden by the spirit of this order, a report of the circumstances of the case is to be made to the commissioner, who will give directions as to whether the inquiries are to be made. There is a similar regulation in most American detective forces forbidding the police or detective force from giving assistance in civil cases, but the spirit of this regulation is violated much more frequently in the United States than it is in London. And this violation of the spirit of this regulation is a most prolific source of blackmail and oppression, particularly among the poorer classes of the population of the large cities.¹

Another striking difference between the method of operation of the London detectives and the method of the American detectives lies in the fact that the English detectives confine themselves entirely to the work of ferreting out the criminals. In New York, on the other hand, a detective not only captures a criminal but he often furnishes the press with an account of his great capture, his own name, and other full particulars. This information is carefully studied by the professional criminal, who soon comes to recognize each detective by name and by sight. In addition he knows the detective's methods of operation so that he is able to thwart his purpose. Furthermore, he has an opportunity to try to bribe the detective by the offer of hush money or even to secure his co-operation in some contemplated criminal undertaking, if the detective is not possessed of strong moral character and honesty. The detectives in America are also well known to the uniformed patrolmen, who sometimes assist friends by giving them information of the approach of a detective.

¹ *Instruction Book of London Police*, 202.

In England, on the other hand, the detective is known only by his number and it is the constant and very successful endeavor of his superior officers to have their subordinates become acquainted with each other as little as possible. They are hardly ever known by any one outside of the department and are seldom known to the uniformed patrolmen. They do not describe their methods of operation or their great captures in the public press and, thus being known neither to the professional criminal, the patrolman, nor the general public, nor even to their comrades, they can do their detective work in a most efficient manner. It is interesting to note that the same method of operation is used by the United States Secret Service, which also uses every endeavor to prevent the names, the identity, or the methods of operation of its agents from becoming public.

SECTION II. POLICE DETAILS

Classification—A Bad System—Political Influence—Police Details—Personal Aides—Detective Work—Demoralizing Duties—Excise and Gambling—Public Details—Similar Postal Abuse—A Suggested Remedy—Private Details—Temporary Details—Labor Disputes—Probation Officers—Qualifications—Duties—Percentage of American Police Forces on Patrol Duty.

Police details may be divided from the point of view of their character into three classes,—police details, public details, and private details,—and from the point of view of their duration into two classes,—temporary details and permanent details. A police officer is said to be detailed when he is relieved from the performance of regular police duties and is given some special duty to perform. All details are to continue during the pleasure of the chief of police, so that the distinction between permanent details and temporary details is one of degree rather than of kind. Temporary details are ordinarily made for a single occasion such as a parade or a public meeting, or for a short period such as an acute labor disturbance, while permanent details

are made for a longer period. A detail to the court squad or a detail to the health squad is considered a permanent detail, since such assignments are seldom revoked by the chief, although he has the power of revoking them.

As regards the character of the work performed by the officer who is detailed, it may be either police work, public work, or private work. When an officer is detailed for the performance of police duty, such an assignment merely relieves the officer from the obligation of performing patrol service. It is, in effect, what is called in many cities an assignment to a fixed post or an assignment to a special post. Instead of patrolling a certain number of blocks the policeman is ordered to stand in front of an unfinished building to guard the workmen during a labor strike or he is ordered to stand in front of a gambling house to obtain evidence. Officers detailed for the performance of public work are those who are not required to perform police duty of any kind, but are assigned to a public office to represent the majesty of the law. Private details are assignments of police officers for a shorter or a longer term to assist private individuals in maintaining order and preventing the commission of crimes against their property, such as details to guard railway property or to prevent shoplifting in department stores.

Before examining in detail the more important police details in American cities it may be well to consider briefly the system of details as a whole. This system is a most serious defect in the administrative organization of American police departments. In the first place, there is absolutely no justification for any kind of detail, except what we have called the temporary detail for police purposes. There is no more reason why an able-bodied, high-salaried police officer should be detailed to act as clerk at police headquarters or to act as major-domo for the head of another city department or to assist a private corporation in protecting its own property than there is for an assignment of soldiers from the United States Army to do similar

work. Policemen are carefully selected after a rigid physical and mental examination for the performance of police duties,—for the patrol of the streets and the detection and arrest of offenders. They are paid a high salary or at least they are paid a higher salary than is paid to clerks, messengers, and watchmen.

To take individual members of a carefully recruited force of this kind and assign them to clerical tasks is an insult to their manhood and a waste of the public funds. But quite apart from the financial considerations which are important, this system of details is an exceedingly convenient entering wedge for the politician and for the criminal who represents himself to be a politician. Many details are what are commonly known as "soft snaps." They are positions in which an able-bodied patrolman can obtain the high salary of a police patrolman while performing light clerical work or while simply standing around and looking dignified. Such positions are eagerly sought for by the members of the force, not because policemen are any more indolent than any other class of individuals, but because the performance of patrol duty is physically exhausting and every man naturally tries to obtain the lightest work possible. Since these details are highly desirable from the point of view of the incumbent and since they are comparatively few in number, they can be obtained only by those police officers who have political influence.

When a policeman speaks of political influence he pronounces these words with the same awe as an ignorant and illiterate man speaks of a "lawyer's letter." They are words to conjure with. Every saloon-keeper on the officer's beat will be able to procure for the officer this desired political influence, and the district leader will also offer his good offices if the policeman "treats him right." Thus the prospect of securing a "soft snap" stands constantly before the officer as an incentive which urges him to be lax in the performance of his duties, so that he may please the district leader and his friends, from whom he hopes to secure an assignment

to a detail. It is difficult to conceive of any other single factor which is so conducive to a bad morale among the uniformed force or which is more successful in preventing police officers from performing their full duty.

When the politician's influence begins to be felt in a police department the efficiency of the department is bound to suffer, since the point of view of the politician is radically different from that of the police department. To enforce the laws the police department must repress individual freedom and must come into conflict with the individual liberty of the citizens; to secure popularity and votes the politician must seek to promote among his constituents the largest degree of personal freedom and protect those who come into conflict with the police. And just as the politician, if he has influence at headquarters, can secure a favorable detail for a policeman who is kind to him and his friends, he can also secure a transfer to an unfavorable suburban district or even the dismissal from the force of any officer who incurs his displeasure. When it is remembered that because of the difference in point of view between the politician and the efficient police officer such displeasure is generally obtained by efficient police work and such favor by laxness on the part of the policeman, the effect of the system of details which is the chief reward that the politician can hold out to a policeman is apparent.

Temporary assignments of police officers to special posts are not properly speaking details at all, or if they are, they are not subject to the same abuse as are the great majority of police details. Sound principles of police administration demand that for short periods of time officers be assigned to some special police duty just as the great majority of the force is assigned to the general duty of police patrolling. For an hour or two each day a particular street corner may require the services of a policeman to guide the swarms of boys and girls across the trolley tracks. A military parade or a funeral cortège may require the assignment

of policemen to keep the crowds on the sidewalks in order and prevent accidents. A fire may leave dangerous ruins standing which are liable to fall at any moment injuring the crowds of curious people who flock to the point, and the services of policemen may be required to prevent accidents. All of these special assignments are perfectly legitimate, both because they are temporary and because they are for strictly police purposes. It is just as much the duty of the police to prevent accidents which may result from abnormal conditions which can be foreseen, as it is to guard against disorder and accidents in the ordinary course of events.

But even among legitimate details for police duty there are some details which are clearly indefensible. Policemen should not be detailed to clerical positions in the station-house or at headquarters. Clerks are cheaper and can perform the same work more efficiently or at least as efficiently as policemen. They should not be assigned to act as the personal aides of precinct captains. Precinct captains do not need personal aides, and the assignment of a policeman to such a position tends to lower the discipline of the force. Such a detailed officer comes to be on terms of too great intimacy with his superior officer, and familiarity may breed contempt. Such a condition of affairs as that recently discovered in one of our largest American cities where a police captain had assigned a policeman for a period of four weeks or more to act as the collector of rents for his private real estate holdings could never occur if the assignment of personal aides to precinct commanders were abolished. Of course, these detailed officers are seldom officially known as personal aides, but that is what their position amounts to in practice. Moreover all these details for strictly police business should be made by the chief of police and for a short definite term. If this power is delegated to the police captain, it frequently leads to marked cases of official favoritism, while if the details are made by the chief of police on the recommendation and nomination of the captain this

element of favoritism will be largely reduced, because the necessity of having the term of a single man's detail extended again and again will deter most police captains from keeping policemen on detail for too long a period.

How far uniformed police officers should be detailed for the purpose of securing evidence and ferreting out criminals is difficult to determine. If the city has a thoroughly efficient detective force, nearly all of the detective work should be done by a detective detailed to the precinct from the detective department at headquarters. Yet there may be occasions when an officer with intimate local knowledge can prove himself more useful than a stranger, and it may also be that in the absence of a well-organized, efficient detective force the precinct captain who is held absolutely responsible for the conditions in his precinct may be obliged to use his own men for the purpose of securing evidence. Like all other details these details should be made for a short period so as to minimize as much as possible the abuses which are inherent in every system of details. Furthermore, the purpose of the detail should be clearly and explicitly stated in the request of the captain for the detail of the officer. No request for the detail of an officer should be approved where such detailed officer is to procure evidence, the procuring of which may have a tendency to corrupt his morals.

The Supreme Court of the State of New York has repeatedly taken this view of the matter,—that police officers should certainly not be ordered to indulge in debauchery for the purpose of obtaining evidence against disorderly houses. In the case of Police Captain Eakins, who was removed from the New York force for neglect of duty on the charge of failure to suppress disorderly houses in his precinct, the court in reviewing the evidence against him furnished by agents employed for this purpose by a private society, said that if evidence as to the character of the houses which the captain failed to suppress could have

been obtained only in the manner in which the witnesses for the prosecution secured it, the findings would hardly have been justified, since the necessary result of the employment of members of the uniformed force to procure evidence of this kind would be so to deprave the men that they would turn to blackmail as a cleaner employment.¹

A policeman is a soldier who must render implicit obedience to his superior officer, and every safeguard should be employed therefore to guard his character from the danger which will inevitably result from assigning him to work which is morally degrading. That such moral degradation will actually result from the assignment of uniformed officers to this kind of work has been proved by the case of Blonk, which is absolutely unreportable,² and by the case of Horan which is amusing as tending to show what the natural result of the employment of police officers for such purposes will be. Both officers were dismissed from the police force for committing vicious acts in order to secure evidence against low resorts, and in both cases the court restored them to duty on the ground that they had been engaged in the discharge of their duties when they committed the vicious acts. Horan was given money by his captain to get evidence against a disorderly house and spent the money elsewhere, pawned his overcoat for two dollars, and was found both drunk and disorderly in the resort against which he had been ordered to obtain evidence. The court reinstated the officer on the ground that he was drunk and disorderly in the line of duty.³

Similarly, police officers should not be required to obtain the evidence necessary to secure a conviction in excise cases. Magistrates require in excise cases proof that the liquor alleged to have been sold in violation of the law was alcoholic. Its color, odor, sale over the bar, and similar circumstances are not accepted as sufficient evidence; the

¹ People *ex rel.* Eakins *vs.* Roosevelt, 16 N. Y. App. Div., 364.

² People *ex rel.* Blonk *vs.* Police Board, 45 Hun. N. Y., 589.

³ People *ex rel.* Horan *vs.* Police Board, 35 Hun. N. Y., 671.

witness is required to have drunk or tasted the fluid. We have the testimony of competent physicians and physiologists that a taste for alcoholic liquor is quickly cultivated by a healthy man, and it is easily evident that, if a policeman is ordered by his captain to enter bar-rooms and tipple for the sake of getting evidence of violations of the liquor law, he may soon become addicted to the use of intoxicating liquor. The procuring of such evidence will inevitably tend to lower the self-respect and moral tone of the entire force.¹

One further problem arises in connection with the temporary detail of police officers for police business and that is the practice, which has arisen in recent years, of ordering police officers to stand in front of houses suspected of being gambling places or disorderly houses for the purpose of warning patrons who may enter that the house is an illegal resort and liable to be raided by the police at any moment. Such action is on the whole not very effective and it seems to be contrary to the spirit of our institutions. People who are in the habit of visiting criminal resorts are frequently not deterred from their purpose by such warnings, and this system places in the hands of the police captain a tremendous power which he may use, if he is so inclined, for the purpose of extorting blackmail, since by posting a police officer in front of the house of a man who is not engaged in a criminal business he could ruin his business. It is doubtful whether in the absence of malice such an individual could maintain an action for damages against the officer, and in any case such an action would generally not be effective, since in many cases the police officer would be financially unable to pay any judgment which might be awarded.

Although the courts will not ordinarily interfere to prevent the enforcement of the criminal law,² they quite generally grant an injunction against the police captain on

¹ Purrington, *North American Review*, clxxiv, 513.

² *Delaney vs. Flood*, 183 N. Y., 323.

the ground that irreparable injury would otherwise result to an existing business.¹ This procedure, though sometimes embarrassing to an efficient police officer, is necessary to protect the rights of the individual against arbitrary police action. Of course, if the plaintiff shows in his pleadings that he is engaged in a business which is conducted in violation of the statute, he will be denied an injunction on the equitable principle that the plaintiff must come into court with clean hands² and this, it would seem, ought to be sufficient to prevent an undue embarrassment of the executive power of the police. Moreover, the police captain ought to endeavor to secure evidence upon which he can close the illegal resort and arrest its proprietor. Such action is more effective and less dangerous to personal liberty than the method of detailing an officer in front of a suspected house to warn those who enter.

Police officers are frequently detailed for the performance of public duty which is not police duty. The subject of the detail of police officers for the safeguarding of the public health, such as the tenement-house squad, the health squad, and the boiler squad will be considered in detail later.³ We refer at this point to the detail of police officers to the courts and to the various city departments. That uniformed men are often required in the various city departments to uphold the dignity of the law is beyond dispute, but it does not follow from the existence of this undoubted need that police officers are the proper men to detail for this purpose. When the Board of Health issues certificates of employment to a thousand boys and girls each day or vaccinates a thousand persons, it requires a uniformed man to keep these crowds in order. Most of the departments should also have a uniformed man to direct callers to the proper part of the office where their business

¹ *Burns, vs. McAdoo*, 113 N. Y. App. Div., 165.

² *Cleary vs. McAdoo*, 113 N. Y. App. Div., 178.

³ Chapter V, Section 3.

can be quickly attended to. Police officers are, however, too expensive for this work. They are selected for police patrol service and it is wrong to detail them for any purpose not connected with the police department. A civilian attired in the uniform of a special policeman can maintain order at the Health Department office as well as a policeman and he will cost about half as much. Similarly the duties of hall attendant in the municipal departments can be attended to just as well by a uniformed civilian.

This system of details to municipal departments is a peculiar result of that lack of scientific organization and that desire to get something for nothing which is just as patent in public life as in private life. A strikingly similar abuse is that of the franking system in the postal administration of the United States. One of the elements which has had an important influence in causing the annual postal deficit in the United States is the custom which has arisen of carrying, free of charge for postage, all mail matter which relates to official business. The specious argument which is employed to justify this abuse is that, since the Government of the United States would have to pay the postage on this official mail matter, it is just as well for the Post Office Department, which is operated by the Government, to carry it free of charge. But there are two very important considerations which show the fallacy of this argument. In the first place, if one department of the Government wants to send mail matter, it is neither equitable nor good business system to charge another department of the Government for this, and the practical result of the franking system is that much mail is sent out which would not be sent at all, if the department sending it had to pay for the cost of carriage, or it is sent by letter mail, which is an exceedingly expensive method of transportation, when otherwise it would be sent by freight. In the police department the system of details for public duty is similar.

Many men are detailed to city departments where their

services are not needed at all, many are detailed to perform services which could be more cheaply performed by men who are not police officers, and, finally, even where policemen are required to perform the services for which policemen are detailed, there is no reason why the police department should pay their salaries. For example, a large force of policemen is regularly detailed to duty in the courts of the city. As far as the higher courts are concerned this detail of policemen is entirely unnecessary, as a uniformed court attendant could perform the same service as well and more cheaply, the duties of these officers being confined principally to the announcement of the opening of the court and the procuring of a glass of water for the judge when he asks for it.

In the lower criminal courts, on the other hand, there is probably a real need for the detail of police officers. Here it requires a policeman's uniform to maintain the dignity of the law and it would seem that no other uniform will do equally well. The class of people that is seen most frequently in these courts does not have any greater respect for the majesty of the law than is enforced by the physical authority of the policeman, and the orderly administration of justice would be seriously interfered with, if the policemen on detail in these courts were withdrawn. But this fact does not justify the saddling on the police department of the expense of maintaining police officers who are performing services for the police courts, unless they also render some service to the police department.

Either one of two remedies would seem to be a possible solution of this problem. Either the payment of the salaries of the policemen so detailed to the courts should be made by the courts, or the policemen on detail should be required to perform some service which is of value to the police department. In London, for example, a few supervising officers are permanently detailed to the courts to maintain the traditions of these details, and the rank and file of the officers is composed of young recruits to the police

TABLE 6. PERCENTAGE OF AMERICAN POLICE FORCES ON PATROL DUTY.

CITIES.	RELATION OF PROFESSIONAL AND CIVILIAN HEAD			PATROL PERIODS		PATROL FORCE		MISCELLANEOUS OFFICERS									
								Not Specified.									
								Professional Head Independent in Minor Matters									
								Civilian Head in Control.									
								Professional Head Independent									
								Not Specified.									
								Broken.									
								Continuous.									
1.	Albany, N. Y.																
2.	Baltimore, Md.																
3.	Binghamton, N. Y.																
4.	Bridgeport, Conn.																
5.	Buffalo, N. Y.																
6.	Cambridge, Mass.																
7.	Camden, N. J.																
8.	Charleston, S. C.																
9.	Chattanooga, Tenn.																
10.	Chicago, Ill.																
11.	Cincinnati, O.																
12.	Cleveland, O.																
13.	Cohoes, N. Y.																
14.	Columbus, O.																
15.	Covington, Ky.																
16.	Dallas, Tex.																
17.	Davenport, Ia.																
18.	Dayton, O.																
19.	Denver, Colo.																
20.	Des Moines, Ia.																
21.	Detroit, Mich.																
22.	Duluth, Minn.																
23.	Elizabeth, N. J.																
24.	Elmira, N. Y.																
25.	Erie, Pa.																
26.	Fall River, Mass.																
27.	Fort Wayne, Ind.																
28.	Grand Rapids, Mich.																
29.	Harrisburg, Pa.																
30.	Hartford, Conn.																
31.	Haverhill, Mass.																

32.	Indianapolis, Ind.	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
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force, who obtain from their detail a most valuable course of instruction in criminal procedure.¹ The introduction of this system in America would abolish the charge of favoritism and "soft snaps" in connection with the court details and would make it perfectly legitimate for the police department to pay the salaries of the policemen so detailed, since they would be gaining knowledge which will make them more efficient patrolmen. It is quite certain that the young policemen under the direction of supervising officers who are permanently detailed could perform the duties of court officers in the lower criminal courts quite as efficiently and possibly even more efficiently than the men who are at present detailed for that service.

The detail of policemen for the performance of private duties is exceedingly difficult to justify. The problem assumes importance only when the number of such details becomes so large or so permanent in character as to cripple the available force of the police department by decreasing the number of men available for legitimate police purposes. If in a small town one policeman is detailed to a railroad station, this may perhaps be legitimate police duty, but, if in a large city a railroad company asks that a policeman be detailed to two hundred stations, it becomes a more serious matter. The railroad company will argue that it is the duty of the city to police properly every part of the city requiring police protection, and this is certainly true. On the other hand, it is also the duty of the railroad company to police its property or to respond in damages to any one who is injured by its failure to do so. As long as the police force of the city has not enough men to patrol its streets and leave some men over to patrol the railroad company's property, every one will admit that the railroad's demand should be refused by the chief executive officer of the police force, because its approval would take away too many men from the streets.

The principle of denying police details to private individ-

¹ *Instruction Book of London Police*, Section iii, Par. 3, p. 20.

uals or corporations may be carried too far, if we lose sight of the important distinction between permanent and temporary police details. One ardent reformer is reported to have said that, whenever a man causes a crowd to collect on his property, he should provide a private policeman or watchman to protect his property. According to this theory whenever a man invites a party of friends to his house, he ought to hire a private watchman to maintain order among the carriages. But temporary details of police officers for such purposes, even though for the benefit of private citizens, when made for the protection of property or the handling of crowds which have collected, are perfectly justifiable as temporary details for a public purpose. Such a detail can be justified, even though a similar detail of a larger force at regular intervals to a series of railroad stations, or to theatres, or to ball-grounds could not be justified. The law at present authorizes a private employer to engage private policemen, who shall have all the powers of public policemen, but whose salaries shall be paid by the private employer. The efficiency of the police departments in America could be much increased, if this permissive statute were made mandatory in cases where a private person requires the services of a policeman at frequent intervals or for a long period of time.

A striking instance of the need of such private policemen arises in the case of labor disputes. Such disputes arise with sufficient frequency in the larger cities seriously to interfere with the efficient administration of the police department by reason of the large withdrawal of men for the assistance of the private employers. If the employees of a public service corporation go on strike, the public interest is so largely affected and the dangers of public disturbances affecting the whole community are so great that it is perfectly proper that the entire police force be detailed to protect the property of the railroad company, if that be necessary. But if the employees engaged in the building trades go on strike and threaten to destroy the private

property of their employers, the public interest in the matter is comparatively small.

The public is naturally always interested in preventing injuries to persons and to property, and the police force should be used to protect persons and property at all times and without distinction. But it would seem that an efficient and economical administration of the police department would be reluctant to detail two policemen to each of five hundred buildings in course of construction to protect them against the possible assaults of strikers. The protection of this private property against the assaults of private enemies is a service which can be just as well performed by private watchmen employed and paid by the owners of the property. If a city had a large police force, which would not be seriously crippled by the withdrawal of such a large number of men on private detail, there might be no objection to detailing them for this purpose, but until the municipal police force is sufficiently strong numerically, private owners should be compelled to provide private watchmen whenever they require for a long time a considerable force of men to protect their property.

The detail of police officers to assist the courts as probation officers is a system which is of recent growth. The creation of the position of probation officer marks the beginning of a scientific interest in the reformation of the criminal. Previous to the establishment of this position each offender was treated by the judge almost exactly like every other offender. The young man who through keeping bad company became accidentally associated with criminals and was caught committing his first crime, which had perhaps been committed without any criminal intent, was sentenced to the State prison for as long a term as the old offender who had already spent several terms in that institution. The result was, as our criminal statistics so abundantly prove, that the accidental offender became from the corrupting influences of the State prison a habitual offender.

To remedy this abuse in the criminal administration of the country various innovations have been introduced. The indeterminate sentence and the suspended sentence are the most important of these innovations. The indeterminate sentence aims to make the sentence only so long as may be necessary to reform the criminal and make him realize the enormity of his offence, as well as to afford him an incentive to reform. It is a sentence imposed by the court without fixing a definite period of limitation or term of imprisonment, and simply directs that the convict be imprisoned or placed in the custody of the prison authorities, to be held for not less than the minimum nor more than the maximum term fixed by law for the offence of which the prisoner stands convicted.¹ In the case of the suspended sentence the judge, after the prisoner has been convicted, paroles him in the custody of an officer of the court, frequently the probation officer, and requires him to report to the court at regular intervals. In this way the court is enabled to determine whether the first offender has reformed or whether he is still leading a dishonest life. If he fails to lead an honest life or if he fails to report regularly, the sentence for the crime of which he has been convicted and which was previously suspended is imposed upon him and he is sent to prison.

In order to enable the judge intelligently to determine what prisoners are entitled to the consideration of the indeterminate and the suspended sentence, he must have a body of trained investigators. These investigators are the probation officers, and they may be officers detailed from the police force, or they may be selected in other ways. Other things being equal, it would be advisable to have these probation officers members of the uniformed police force, because the ideal police organization should not only concern itself with the prevention and detection of crime but also with the reformation of the criminal. But as police forces are at present constituted, this is

¹ *New International Encyclopedia*, 1st Ed., xv, 666.

probably an ideal which cannot be carried out in practice, so that at the present day police probation officers are not always as efficient as those selected in some other way.

In the first place, the probation officer should be a trained sociological investigator, who has a considerable acquaintance with the professional criminal class, and there are few police officers in American police systems who are trained investigators. Our police officers as a general rule have neither the educational qualifications nor the native talent for this painstaking work of investigation. The sociological workers, on the other hand,—the men and women who work in the neighborhood settlements, the prisons and the missions,—have this ability to investigate social and individual conditions, and they can soon acquire a larger acquaintance with the professional criminals than the average policeman possesses. Then, too, in order to secure the best results female probation officers must be provided for the female prisoners and male probation officers for the male prisoners, and the police force has no women who are capable of acting as probation officers.

The system which is at present in force in New York and in a few of the other States which have introduced probation officers is to have these officers under the direction of the court, which appoints them and removes them at its pleasure. They are generally selected without civil-service examination from the ranks of those sociological and philanthropical workers whose work brings them into contact with the criminals, and they generally receive either no salary or only a nominal salary. In New York any court having original jurisdiction of criminal actions may appoint probation officers to hold office during its pleasure. Such officers may be either private citizens, or clerks of the court, or clerks of the district attorney's office, or officers of charitable societies, or members of the police force detailed to the criminal

courts, and they receive no compensation whatever, excepting that, if they already receive an official salary, such official salary shall be continued, and excepting further that in the city of New York those that do not receive an official salary may be voted a salary by the Board of Estimate and Apportionment.

These probation officers may be either men or women. Their duties consist of making inquiries into the antecedents of any convicted criminal in whose case it shall appear after conviction that there are circumstances tending to mitigate the offence. In such a case the judge has power either to parole the prisoner for a period of three months or less in the custody of the probation officer or to impose a suspended sentence for a similar period of three months, but in no case may it be extended for more than one year in all. The probation officer must require such convicted prisoners to report to him at regular intervals, and he must report to the court any violation or breach of the prisoner's promise. Upon such a breach of the prisoner's promise and of the conditions of the parole, the court may revoke the parole and impose sentence or, if the sentence has been suspended, it may revoke the suspension, whereupon the sentence must be carried out by the proper officer.¹

SECTION III. PUBLIC HEALTH AND SAFETY

Lack of Centralization—Protection against Fire—Inspection Force
—Protection of Public Health—Duties—Building Regulations
—Corruption—Tenement Conditions—Tenement-House Department—Broad Discretion—French Law—Limitations—Supplementary Legislation—German Law—Administrative Control—English Law—Consolidated Public Health Act—American Law—Due Process of Law.—Abatement of Nuisances.

IN addition to the function of preserving the peace and arresting offenders, the police force has an important

¹ Laws of New York, 1901, Chap. 372; 1903, Chap. 613; 1904, Chap. 508.

duty to perform in the preservation of the public health and safety. This function is in the cities of continental Europe always entrusted to the police department, and includes protection against fire and the enforcement of sanitary and building regulations. In the United States these functions are generally entrusted to separate municipal authorities, but the relation of these municipal authorities is of importance not only in a theoretical consideration of police administration, but also in practice. In Philadelphia and in a few other cities these functions of the city government, which have for their object the protection of the public health and safety, are all entrusted to a single department,—the department of public safety,—and this department is subdivided into several bureaus, one for the care of the police force itself, another for the fire department, etc., etc.

Since in New York and the large majority of the American cities all of these police departments in the city are separate and distinct departments, entirely independent of the uniformed police force, it frequently becomes necessary to detail uniformed police officers to assist these other city departments exercising police functions. The Philadelphia system of centralizing all these police functions in a single board of public safety would seem to be the correct system in principle, yet the centralization of municipal departments has not yet reached such a point of progress in the United States as to make it reasonably probable that the Philadelphia model will be followed in many American cities in the near future. It therefore becomes necessary to consider the functions of the departments of the municipal government which care for the public health and safety of the people, and to study their relations to the police department, as it is at present constituted in most American cities.

The uniformed police takes measures against public dangers arising from the action of human agents, but there are dangers to public security from non-human forces, and of these the danger from fire is in urban communities one of

the most constant and most perilous. The compact nature of city building makes easy the rapid spread of a fire from one house to another, so that a burning house in the city is not merely a calamity to the owner and occupant, but also an immediate threatening danger to the entire community. Since the danger is confined to the local community the methods of escaping the danger are usually very appropriately under municipal control.¹ The protection against fires which is found in fire insurance,² and that resulting from the establishment of fire brigades and the maintenance of efficient and well-equipped apparatus for the prompt extinguishment of fires does not concern us particularly in this connection, since these functions are attended to either by private agencies or by specialized forces that do not exercise functions in any way analogous to those of the uniformed police force.³

But during the past decade an efficient administration of the fire-fighting force of the larger cities has demanded not only that fires which break out be promptly extinguished, but also that every endeavor be made to prevent fires. This preventive work requires the employment of an inspecting force to discover violations of the fire regulations and to enforce these fire regulations. Bakeries are regularly inspected; premises where highly inflammable material is handled or stored are similarly inspected; permits are required for the handling or temporary storage of combustibles, and such combustibles can be handled only under certain restrictions and by men who have proved their fitness for handling them. Theatres, factories, and other buildings in which large crowds may reasonably be expected to gather are required to be supplied with fire-escapes and auxiliary fire-fighting apparatus, and all high office buildings must also install fire-fighting apparatus which meets the requirements of the fire department.

¹ Fairlie, *Municipal Administration*, 149.

² Gomme, *Principles of Local Government*, 166.

³ Fairlie, *Municipal Administration*, 151.

To enforce these regulations a force of inspectors is provided and this force is differently recruited in different cities. In some cities these inspectors are civilians, in others they are members of the uniformed police department, and in still others they are members of the uniformed fire department. Members of the fire department are not well suited for this work, because while on the whole the firemen are better developed physically, they are less well educated mentally than the policemen. Civilians also do not generally perform this service efficiently. The best system, therefore, is that in which these duties are performed by uniformed police officers detailed to the fire department for this work. The uniform of the policeman commands respect and obedience where the uniform of the fireman is treated with coldness and the civilian is treated with disrespect. Even though in the enforcement of these fire regulations the power of summary arrest is not generally conferred upon the officer enforcing them, but the process of enforcement by means of a civil action is resorted to, compliance with the order of the department is frequently secured when the order is enforced by a member of the uniformed police force. These details of police officers to the fire department which are now not of very frequent occurrence in the United States should be increased and introduced into more cities, but the salaries of the officers so detailed should be paid by the fire department and the detail should be permanent as long as the officer detailed performs his duties efficiently.

The second activity of the police of public health and safety is the protection of the public health, and this has been the subject of municipal action for many centuries.¹ In the United States municipal health boards and health officers were introduced in the middle of the nineteenth century, and before that time there was almost no permanent force or constant service. No action was taken to

¹ Fairlie, *Municipal Administration*, 157; Simon, *English Sanitary Institutions*, 245.

prevent epidemics of small-pox or cholera until these diseases had made their appearance, and as soon as the epidemic abated the precautionary measures were relaxed. The most important duties of the health boards at the present day are the inspection and abatement of unsanitary conditions likely to prove dangerous to the health, comfort, and convenience of the citizens. To perform these duties the health boards usually possess arbitrary and summary powers. Judicial process is slow, and the abatement of nuisances and other measures required for the protection of the public health demand promptness of action in order that they may be effective. The general authority to suppress nuisances has existed in England for a long time and has developed along certain specific lines.

It includes a supervision over the removal of garbage and ashes, including the proper cleaning of the streets. This duty is ordinarily performed by the health department, although in some of our largest cities there is a separate department of street cleaning, and in some other cities the duty of cleaning the streets and removing the garbage is attended to by private contractors. Wherever the health department does not itself attend to these matters, it exercises a careful supervision over them. Another special line of activity of the health department is the supervision exercised over plumbing and house drainage, which is secured both by regulations to be followed in building construction and by the examination and licensing of plumbers. Here again in our largest cities these duties have devolved upon a separate building department, which has complete charge of the supervision of the construction of all new buildings, but in buildings which are not new the health department still retains its jurisdiction and its powers. The prohibition of the use of soft coal and the regulations forbidding spitting in public places, to aid in the prevention of tuberculosis, are also enforced by the health department.

In addition to these general matters of public concern, the health department inspects milk and other food sup-

plies, and condemns such food as it may find unfit for human consumption; it inspects all offensive trades, such as slaughter-houses, fertilizer, glue and soap factories, chemical works, stables, and gas works; it vaccinates adults and children free of charge to prevent the spread of small-pox, and requires the reporting and isolating of all cases of infectious diseases, such as small-pox, diphtheria, scarlet fever, typhoid fever, measles, meningitis, yellow fever, leprosy, cholera, whooping cough, and German measles,, and in a few cities tuberculosis.

All of this work requires not only the formation of regulations but also the employment of an efficient inspecting force to discover and punish violations of the regulations.¹ This work of regulation may be divided into two parts, one of which requires scientific knowledge of a high order and the other physical force or a badge of recognized authority. To determine whether a given individual is suffering from an infectious disease requires the highly specialized knowledge of an expert medical diagnostician. To compel the abatement of an offensive cesspool requires no expert knowledge, but simply the authority and, if need be, the physical force of the policeman. Moreover, the policeman is frequently required to guard the expert in the performance of his duty, as for example, when the milk inspector stops a milk wagon and, after testing the milk and finding it below the standard, throws it all into the gutter, it is only the presence of the policeman which will prevent the owner of the milk from assaulting the sanitary inspector. To fulfil these needs of the inspection service, most of the large cities maintain a corps of expert medical sanitary inspectors, and in addition they require the detail of police officers to assist and support the medical inspectors.

In Germany all of this work is performed by uniformed medical officers who have all the powers of police officers and who form a part of the police force, but this system is not employed in America where the health administration is

¹ Fairlie, *Municipal Administration*, 169

given into the hands of a separate municipal authority. Nor is there any serious waste of money in this arrangement, since the work of expert inspection and of police regulation can in most cases be clearly defined. The medical inspector can perform his duties more efficiently when he is not required to perform incidental police service, and the police officer can perform the necessary police service much better than any expert medical inspector. The salary of the police officers detailed to the health department should, of course, be paid by the health department, and the detail should be continued as long as the detailed officer performs his duties efficiently. It might also perhaps be advisable in selecting men for this detail to select those who, by reason of their occupation previous to their appointment on the police force, are best qualified for this work of sanitary inspection. Those who were formerly builders or plumbers would be better qualified for this work than those who had been drivers or porters.

The building department, the tenement-house department, and the street-cleaning department are departments of comparatively recent birth, to which have been given some of the duties which were formerly attended to by the health department. The earliest of these departments is the building department, to which were given the duties of the health and fire departments in connection with the erection of new buildings. Building regulations have four general objects in view,—protection against fire, protection against collapse, sanitary protection, and the satisfaction of æsthetic tastes. The protection of old buildings against fire is entrusted to the care of the fire department, which has authority to order the installation of auxiliary fire appliances and fire escapes and the removal of inflammable material. The sanitary protection of old buildings is in the jurisdiction of the health department, which can order plumbing work to be repaired or the house vacated until it has been put in a sanitary condition.

But it was deemed advisable to concentrate all of these governmental activities as regards new buildings in the hands of a single department, and the building department was organized for this purpose. The protection of new buildings from fire is secured by forbidding the construction within the city limits of buildings the external structure of which is entirely of wood, and by requiring fire-proof construction in the case of all very high buildings and of all buildings used for the accommodation of large numbers of people, such as theatres, hotels, and hospitals. Building regulations to prevent unsanitary conditions relate chiefly to the installation of sanitary plumbing and the securing of a sufficient supply of light and air. The provisions which aim to prevent the collapse of buildings relate chiefly to stability of construction, which is to be secured by the use of good building material and by proper workmanship in the construction. The æsthetic tastes of the people are often expressed in regulations which aim to prevent the erection of unsightly buildings, or else aim to secure a certain æsthetic ensemble along a particular street. Such regulations, however, are more frequently found in European cities than in American cities.

To secure compliance with these building regulations builders are required to submit their plans to the building department before they begin their work of erecting the building; and after these plans have been approved by the expert architects of the department, the buildings are inspected during the progress of their construction by a corps of building inspectors. These building inspectors are generally members of a body separate and distinct from the police force in most American cities, although in Germany and in most of the European countries they form a part of the uniformed force. Similarly, in a few of the American cities these building inspectors are detailed from the regular force. The opportunities for corruption among these building inspectors are so large, because of the many technical points which arise

and the ease with which violations of the rules can be hidden, that the force stands in disrepute in very many American cities. In fact, the persistency with which builders assert that it is absolutely impossible to construct a building, except at a severe financial loss, unless the building inspector is paid hush money, would seem to indicate that there is an almost unlimited field for the use of blackmail and corruption in the building departments of our American cities. Whether this would be remedied by consolidating the building department with the police department, as should logically be done, is problematical, in view of the fact that the police department is itself not altogether free from the charge of corruption. That the present system of building inspectors who are not organized under any military discipline is almost unbearable and intolerable to the builder who has any conscientious scruples against bribe-giving seems to be well recognized by all students of the subject.¹

The establishment of the tenement-house department in New York City was due to the desire to have the functions of the fire department, the health department, and the building department, insofar as these functions relate to the conditions in the tenement houses of the city, concentrated under a single administrative officer who should have large additional powers for the alleviation of the condition of the people in the crowded districts of the city. In many of the American cities the evils of overcrowding have been avoided, because land has been so cheap that the buildings have spread over a large area, while even in the large cities local rapid-transit systems have aided in preventing too great a concentration of the population in the city. But in a few of the eastern cities the evils of overcrowding are as great as in the European urban centers. Tenements have been so built as to allow to the tenants but a minimum of light and air.

Quoting from the unpublished report of the New York

¹ Fairlie, *Municipal Administration*, 178.

Tenement House Commission, Dr. Wilcox describes the condition of our tenement population as follows:

The effect upon the population of the form of congregated living found in our tenement houses is to be seen not only in its results upon the health of the people but also in its results upon their moral and social conditions. The public mind is just at present especially aroused over the manifestations of one special form of vice in the tenement districts. It is not to be wondered at that vice in various forms should manifest itself in the tenements; the wonder is that there is not more vice in such districts. The tenement districts of New York are localities in which thousands of people are living in the smallest space in which it is possible for human beings to exist, crowded together in dark, ill-ventilated rooms, in many of which the sunlight never enters, and in most of which fresh air is all but unknown. They are centers of disease, poverty, vice, and crime, where it is a marvel not that some children grow up to be thieves, drunkards, and prostitutes, but that so many should ever grow up to be decent and self-respecting. All the conditions which surround childhood, youth, and womanhood in these crowded tenement quarters make for unrighteousness. They also make for disease. There is hardly a tenement house in which there has not been at least one case of pulmonary tuberculosis within the last five years, and in some houses there have been as many as twenty-two different cases of this terrible disease. From the tenements there comes a stream of sick and helpless people to our hospitals and dispensaries, few of whom are able to afford the luxury of a private physician, and some houses are in such a bad sanitary condition that few people can be seriously ill in them and get well. From them also comes the host of paupers and charity-seekers. But the most terrible of all the features of tenement-house life is the indiscriminate herding of all kinds of people in close contact,—the fact that mingled with the drunken, the dissolute, the improvident, and the diseased dwells the great mass of the respectable workmen of the city with their families.¹

To remedy these conditions the tenement-house department inspects new tenement houses after they have been approved as to their structural safety by the building department and investigates whether the regulations of the tenement-house department regarding light and air, and fire-proof and sanitary construction have been complied

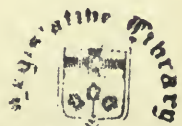
¹ Wilcox, *American City*, 42.

with. It compels changes in the construction of old houses to increase the supply of light and air, to make them a little more fire-proof, and to replace antiquated unsanitary plumbing arrangements with arrangements a little more modern and sanitary.

To carry out this system of tenement-house regulation a force of inspectors is employed. These men are frequently uniformed, are usually men of very good general education and sometimes men who in addition to a good general education possess considerable technical knowledge of the building and sanitary sciences. Their work is chiefly that of reporting violations of the regulations to the central office, on the basis of which reports notices are sent to the owners. If these notices are not attended to, civil actions are commenced by the city's law officer to compel obedience.

A detail of uniformed policemen is placed at the disposal of the tenement-house department for the enforcement of such of its regulations as can be summarily enforced by the arrest of the offender. The principal regulation of this kind is the regulation which forbids the obstruction of fire-escapes. A similar detail of uniformed policemen is placed at the disposal of the street-cleaning department to enforce the regulations of the department which forbid the throwing of refuse into the streets and which require that all refuse be placed on the street in sanitary, non-leaking receptacles and kept separate from the ashes.

We have seen that the administrative police concerns itself principally with the arrest of offenders who violate the laws, and that although the police of public health and safety also arrests offenders, it is impossible under the complex conditions existing in the city to put all the police regulations in the form of commands to individuals, for the violation of which the offender can be punished as for a penal offence. It is necessary to give the authorities of the building, the tenement-house, and the health departments a large discretion to determine whether a given



condition is injurious to the public health. The large discretion which is vested in the police authorities of public health and safety is one of the principal causes of the alleged corruption in these departments, but it is absolutely necessary to vest this discretion in these authorities, for though theoretically the determination of these questions might be entrusted to the judicial authorities, yet these authorities are unsuited to their determination, partly because they are engaged most of the time in the determination of questions of private law and also because judicial procedure is so slow that great damage may be done to the public health before the judicial authorities can reach a decision in a given case.

In France the municipal police authority is placed in the charge of the mayor under the supervision of the higher administrative authorities.¹ The police function is defined as being that function of the government which has for its object the good order, security, and public health of the people, and this general definition is followed by a long enumeration of matters which are placed within the police power of the mayor.² This enumeration of powers is not construed as limiting the general grant of the police power which is given to the mayor.

In matters of police the mayor acts either by means of general acts or by means of special acts³ and the general acts or ordinances are either of a permanent or of a temporary character. The law provides that all acts of the mayor to be valid must be brought to the attention of the persons concerned, and this is done in cases of general acts by means of publication and in the case of special acts by means of special notice. Permanent general acts of the mayor must be transmitted to the prefect of the department who can suspend or annul them for illegality or impropriety, but cannot modify them or issue other acts in their place.

¹ Municipal Corporations Act of 1884, Art. 91.

² *Ibid.*, Art. 97, §1.

³ Jouarre, *Des Pouvoirs de l'Autorité Municipale*.

Temporary and special orders are in force as soon as they have been brought to the notice of the persons interested, while permanent ordinances do not go into effect until one month later, although the prefect can in cases of urgency give them the force of law immediately, and they are then valid until abrogated or suspended by the prefect. We see accordingly that in France the exercise of the police power is subject to the control of the highest authority of the central administrative system in the localities and it is interesting to note that in addition to this administrative control the judicial control in France is just as strict as in the United States.

Even though there are no constitutional provisions in France which protect the rights of private property and the rights of liberty, the courts are more careful of private rights than they are in the United States in checking threatened abuses of the police power. In the first place, the courts of France have decided that no act of the mayor issued under his police power can be retroactive. For example, the mayor cannot order new constructions or repairs under the police power; the mayor can only order that a house be cleaned so that the use of the house may not endanger the public health. He cannot order any such new construction as the installation of sanitary plumbing nor can he provide that every inhabitant in a tenement shall have a certain number of cubic feet of air space. Similarly they applied the doctrine of the famous Declaration of the Rights of Men and held until recently that the mayor could not under his police power force a person to be vaccinated or take a person afflicted with a contagious disease from his home and place him in a pest-house or hospital, although he possessed very large powers over public prostitutes. The result of this narrow construction of the police power has been to render the power of the mayor inadequate properly to protect the public health and to remedy this defect in the administrative system

there was created in 1850 a Commission on Unhealthy Dwellings.¹

The constitution of this Commission is left in the discretion of the municipal council, but if one is constituted, it must include among its members an architect and a physician. This legislation has been given a very narrow construction so that the only dwellings which are affected by the work of these commissions are dwellings inhabited by human beings who are not the owners thereof. The French law will not interfere with a man who wants to live in an unsanitary dwelling owned by himself, but will only endeavor to protect the tenant who cannot protect himself. Nor will the French law interfere unless the unsanitary conditions actually endanger the lives of the tenants. It will not order running water to be brought into the premises nor will it interfere merely because a street is so narrow that there is an insufficiency of pure air. The cause of the unhealthy condition must be in the character of the dwelling or the action of the owner. If there is a violation of the law within these narrow limits as thus interpreted, the municipal council may on the recommendation of the Commission decide that certain work should be done to put the dwelling in a sanitary condition and it may prohibit its use until such work has been done.

In addition to this general law for the whole of France, special laws were passed in 1852 and 1894, which affect only the city of Paris; but these laws increase only slightly the powers of the municipal health authorities. We see, therefore, that in spite of the absence of constitutional provisions in France, private rights are protected there better than the public health. Since the matter is so largely in the hands of a commission which acts but seldom, and generally only on a specific complaint which it investigates personally, there

¹ The powers of the French mayor have been much increased by the Public Health Act of 1902. Vaccination is now compulsory by law. The Commission on Unhealthy Dwellings no longer exists and the law of 1850 has been repealed.

is no need for any special police force such as is found in the United States, engaged in the work of inspecting and discovering violations of the sanitary code.

In Germany there are three classes of police authorities, or rather the police administration may be organized in one of three ways. It may be under the head of a police president as it is in the largest cities or it may be under the head of a police director. In either case the chief police official is appointed by the crown and the police force is under the direction and control of the central government. In those cities in which there is no centrally appointed police force the police is under the control of the burgomaster who is selected by the city council subject to the approval of the crown.

The police authorities attend not only to those functions of public administration which we commonly classify under the head of police activities in the United States, but also to the function of preserving the public health and safety. In all cities having more than five thousand inhabitants there is a health board, but this board possesses only consultative functions and its recommendations are carried out by the regular police force. This health board consists of a representative of the police authorities, a representative of the central government, a representative of the military garrison, a representative of the military medical corps, and several leading citizens. It determines questions of policy relating to the public health and safety, and these are then referred for appropriate action to the proper bureau of the police department.

By the Act of 1850 the police power is granted in general terms to the municipalities and in the same act there is an enumeration of subjects to which the police power is extended; this enumeration, however, is not considered exclusive and the municipality can issue police regulations under the general grant of the police power on any subject, if they are approved by the higher central administrative authorities. In matters affecting the public safety the

city executive must be heard and if the city executive refuses his consent, an appeal may be taken to the higher administrative authorities. The consent of the city executive is sufficient to make the ordinance valid and there is also a provision in the law that in urgent cases the police authority can issue an ordinance without first obtaining the consent of the town executive. In such a case, however, if the consent is not obtained within four weeks, or if the consent is refused by the town executive and the consent of the higher administrative authorities is not obtained within that time, the ordinance becomes ineffective and goes out of force.

Not only do the higher administrative authorities subject to their control the police ordinances issued by the municipal authorities but they can also annul such ordinances. Furthermore, the police authorities can issue individual orders, directed to a single individual, and order him to put his property into a condition which shall not render it dangerous to health. The power of the German municipalities is greater in this respect than was the power of the French police authorities until recently. For although the French police authorities could not do so, the German police could always under the general grant of the police power order a change in the construction of the property, when necessary, for the public health or safety.¹

As regards the purely executive organization of the police it should be noted that the police presidencies or directorates in the larger cities are divided into several bureaus. Thus in Berlin there are six of these bureaus,—the bureau for the preservation of the peace, the industrial bureau, the building bureau, the bureau of public safety, the bureau of strangers, and the bureau of minor criminal matters. The Berlin police, accordingly, in addition to performing in its bureau of the preservation of the peace the duties ordinarily performed by the police department in America, also attends in its bureau of buildings to the work attended to by our

¹ 4 Entscheidungen des Reichsgerichts in Strafsachen, 106.

building and health departments. In many German cities the fire department is similarly a bureau of the police department. Then, too, the German police attends to many matters which with us are left to private initiative or to other than municipal governmental authorities. The industrial police exercises a supervision over labor disputes, a service which, though carried much further, is somewhat similar to that performed by our American state boards of arbitration and mediation. The police of public safety attends to the functions generally attended to by the health department in America, and the police of strangers exercises a very careful supervision over the strangers within the city, registering all newcomers.

Like most matters in the English administrative system the care of the public health and safety is regulated by detailed statutes. At common law the only method of preserving the public health was by the law of nuisances, which made all public or common nuisances indictable. The man who maintained a nuisance was subject to indictment by the grand jury and trial by the petit jury, which must reach its verdict by a unanimous vote, just as in the case of other crimes. With the growth of the urban communities it became necessary to supplement this slow and ineffective procedure, and this was done by the Nuisances Removal and Diseases Prevention Act.¹ It enumerated a long list of forbidden nuisances and authorized the justice of the peace, a quasi-judicial authority, to issue orders for the abatement of nuisances. The procedure before these justices, on account of their quasi-judicial status, was a controversial procedure in the nature of a judicial proceeding and necessarily too slow to be effective in matters requiring such prompt action as does the preservation of the public health. At present the matter of the preservation of the public health is regulated by the Consolidated Public Health Act.²

¹ 18 Vict. Chap. 121.

² 38 Vict. Chap. 55.

By this Consolidated Public Health Act of 1875 the entire country is divided into urban and rural sanitary districts, every borough being an urban district with the borough council as the urban sanitary authority. In each borough there must be a medical officer of health and an inspector of nuisances and surveyor, whose duty it is to execute the laws relating to the preservation of the public health. These officers have authority to employ the necessary assistants and deputies. The powers possessed by the borough council as an urban sanitary authority and by these executive officers are much larger than the powers possessed by the corresponding officers in the United States and on the whole they are sufficient effectively to protect the people from contagious diseases, unsanitary buildings, offensive rubbish, and offensive trades. The borough council has authority to issue ordinances which, however, must be approved by the local government board at London before they are effective.

Besides issuing ordinances the borough council may also on the recommendation of the medical officer issue orders of individual application, such as orders compelling the owners of houses to whitewash their premises, or to introduce running water, or to remove to a hospital a person suffering from a dangerous contagious disease, if he lives in a lodging house, or to destroy food offered for sale, if unfit for human consumption. It should be remembered, however, that there is no such general grant of power to the police officers of public health and safety in England as in the cities of Germany and France, and to determine whether a given subject lies within the jurisdiction of the municipal health authorities, it is necessary to examine the statute. The central administrative control of the local government board at London is exercised for the sole purpose of increasing the efficiency of the local authorities and of protecting private rights. Not only may the local government board refuse to approve an act of a local authority, but it can also order a local authority to act in

cases of emergency requiring immediate action, such as an epidemic of a dangerous disease.¹ The local government board can also fix the qualifications, methods of appointment, and tenure of office of the ordinary officers of health in the various boroughs, can withdraw its approval of their appointment, and has large powers over the local sanitary authorities to keep them up to their duties.² The law authorizes the local government board to step in and take charge of the local health situation whenever on the complaint of a citizen it is found that the local health authorities are negligent. Whenever an unsatisfactory sanitary condition is shown by the fact that the death rate from a preventable contagious disease rises rapidly in any local district, it is a comparatively simple matter to get a citizen to complain to the local government board, and the courts have been exceedingly liberal in upholding the power of the local government board to interfere in such cases. In these cases the courts follow the well-settled rule that when the question involved is one of administrative policy or expediency, the courts will not interfere with the action of the administrative officer. Intervention by the local government board is not often necessary. The knowledge of the existence of this power is generally sufficient to compel the local authorities to obey the orders of the local government board. Furthermore the system of grants of aid by the general government upon inspection by the local government board also helps to keep up the efficiency of the local force of inspectors. This system of grants of aid upon inspection is the same in the realm of the public health police as it is in the case of the police authorities for the preservation of the public peace.

Having explained in some detail the legal powers and administrative organization of the police of public health and safety in Germany, France, and England, and the administrative organization of the police of public health and

¹ Husband, *Sanitary Law*.

² Maltbie, *English Local Government of To-day*, 89.

safety in the United States, a few words should be added regarding the legal powers of the police of public health and safety in the United States. In the United States the system of public health police is based upon the same principle as is the English system,—the idea of the nuisance. We, too, have based our public health regulations upon an elaborate legislative determination in great detail as to what is a nuisance, but we have no such elaborate single statute on the subject as the English Public Health Act of 1875. Instead of such a general public health act our public health legislation is contained in many separate special statutes affecting a single city, and these legislative enactments are supplemented by municipal ordinances of the city council, or as in the case of New York, by the regulations of an administrative authority, such as the board of health, the building department, the fire department, or the tenement-house department. There is furthermore no necessity in the United States that ordinances of the municipal authorities receive the approval of the superior administrative authorities, nor can any superior administrative authority annul them. A sufficient control over the municipal authorities is provided in the practice of the courts, which declare void and illegal any ordinance which violates the constitution or the statutes.

The powers of the police of public health and safety in the United States are generally vested in a series of authorities. Sometimes all the police powers are vested in a single administrative officer, such as the director of public safety in Philadelphia, who has charge not only of the regular police but also of the health department, the fire department, and the building department. Yet this is clearly an exception to the general rule in the United States. In New York City, which is typical in this respect, the duty of caring for the public health and safety is entrusted to the police department, the fire department, the health department, the tenement-house department, and the building department, and some of these depart-

ments have separate organizations for each of the five boroughs into which the city is divided. Furthermore, since most of the American cities do not grant to the mayor any very large power of control over the municipal departments, it may happen that these police departments are practically independent of the mayor who has only the power of appointing the heads of departments while he cannot direct their action.

From the legal point of view the powers of these authorities for the preservation of the public health and safety are derived from the theory of the nuisance, which in our American system of jurisprudence is very broad,—broader in fact than in any other country except Germany. This is due in large measure to the circumstance that our constitutional provisions protecting private rights have been construed by the courts as having been adopted in view of the police power, which is not regarded as being limited thereby. In other words, if a man is deprived of his liberty or property under the police power, this is due process of law. The constitutional provisions only prevent the legislature or its delegate from confiscating property absolutely. Leaving aside all the refinements of our American law, it amounts to this: There are a certain number of common-law nuisances which have been elaborated as the result of the decisions of the courts, and the legislature can add to this list of nuisances, subject to the constitutional provision that it must not deprive a person of property without due process of law. In practice, if the court agrees with the legislature, then anything can be determined to be a nuisance, and if it has been determined that it is a nuisance, it can be abated without compensation to the owner. To take a concrete example, the New York Court of Appeals has decided that the legislature cannot declare the making of cigars in a tenement house a nuisance, but can only declare it a nuisance when such manufacture is carried on under unhealthy conditions.¹ Granted that

¹*In re Jacobs* 98 N. Y. 93.

a certain thing has been legally declared a nuisance, the powers of the police of public health and safety are of the broadest character.

At first a nuisance could be abated only by a criminal prosecution by indictment. This process was so slow that the public health could not be effectively safeguarded by it, and through the efforts of Dorman B. Eaton there was introduced in New York the system of having a trial before the police authorities as to the existence of the nuisance, with an opportunity to the individual to be heard. The New York Court of Appeals has upheld this procedure by declaring that due process of law does not necessarily involve judicial process. The courts have gone even further and have decided that a thing can be declared a nuisance without any hearing. Thus adulterated milk can be confiscated by inspectors, taken from the milk wagon, and poured into the gutter of the street without any hearing.

The only reason why a hearing is sometimes granted before a nuisance is abated is to protect the officer abating the nuisance,¹ since if there has been such a hearing with an opportunity for the owner to be heard, the determination as to the existence of the nuisance can be attacked only directly in an appeal or in a certiorari proceeding and cannot be attacked collaterally in an injunction suit or an action for damages. On the other hand, where a nuisance is abated without a previous hearing, the officer abating it is personally liable in damages, if the matter abated was not in fact a nuisance, and this tends to make the officer more cautious. To remedy this defect in the administrative system, the New York charter has provided that no court shall on an *ex parte* application issue any injunction to restrain the enforcement of an order of the board of health,² that no action for damages shall lie against any officer of the board of health for the enforcement of an order of the board which is illegal and that the only remedy

¹ People *ex rel* Copcutt vs. Board of Health, 140 N. Y. 1.

² New York Charter § 1260.

of the aggrieved party shall be an action for damages against the city.¹ This insures an efficient administration of the health laws without the delay which would be inevitable if the court could enjoin the board of health or if the officer of the board would be personally liable for any mistakes of law which he might make. It also protects the private citizen, who has an adequate remedy if he is unjustly deprived of his property or liberty, by allowing him to sue the city.

In addition to general ordinances and orders of special application the police of public health and safety also has the power of issuing permits. Thus the building police requires every builder to procure a permit before he begins the erection of a new building. This permit is generally issued only after the plans of the builder have been approved. The questions which may arise as to the propriety of the action of the police authorities in refusing a permit are settled in the United States by the ordinary courts and in Germany and France by special administrative courts. Generally, however, the courts in the United States will not interfere with the administrative discretion of the police authorities. If the building department refuses to approve building plans and refuses to issue a permit, the courts will generally not interfere unless fraud or oppression is proved. In Europe, on the other hand, the individual is more fully protected against a mere mistake in the exercise of administrative discretion on the part of the police authorities. On the whole it must be admitted that in the United States in spite of our more effective constitutional provisions in behalf of private rights, our police authorities are less subject to the control of the courts in behalf of private rights than are the police authorities of any other country.

¹ New York Charter § 1196.

SECTION IV. PRIVATE POLICEMEN

Special Policemen—Appointment—Powers—Their Abuse—Railway Policemen—Powers—Hoodlums and Pickpockets—Labor Disputes—Private Policemen—Their Value—Private Detectives—State Regulation—Examples of Efficient Service.

Private policemen are of two kinds,—those who are appointed by the police authorities and paid by the private citizens for whom they work, and those who are appointed by and under the control of private police agencies. The former are ordinarily called special policemen and the latter private officers. The employment of special policemen is justified on the theory that since the police department is not sufficiently strong to detail officers for the protection of private property where the protection of such private property accrues more directly to the benefit of the owner than to the benefit of the public, it should confer upon those who are employed by the owner of the property the powers of police officers. The duty of protecting private property is a public duty which the state owes to its citizens. But where a single person or a legal entity requires a large force of policemen to guard its property, it is not just that the burden of paying for such a guard be cast upon the whole community, and similarly where the crimes which are prevented are not crimes which affect the community vitally.

The principal function of the police department is to render the city reasonably safe for the persons and the property of its citizens. It must guard against burglaries and highway robberies and seek to curb any disorderly element which might otherwise render the streets dangerous. But the city does not have such an immediate interest in preventing petty larceny in dry goods stores or trespass on railroad property. Both of these are crimes which the police are bound to suppress when individual offenders are brought to their attention, but it is not proper that the police should spend any large proportion of their time in endeavoring to discover such violations. The time of the

police can be more profitably spent in running down offenders who have committed offenses which affect the community more vitally. The community, it would seem, aids the individual in such a case by making the offense against his property a crime punishable by the courts, and it is not reasonable to expect the city in addition to exert any very great energy in detecting offenders. If a railroad company desires to keep its right of way free from trespassers, or if a department store keeper wishes to guard his goods from shoplifters, he should be compelled to pay for the force required to do such duty.

Here at the very outset there arises the interesting legal question whether the state can delegate its police power in this manner to a private citizen. The constitution of the United States requires that each state maintain a republican form of government, and if the state delegates its governmental powers such as the police power to private individuals, a feudal government might be established which would be repugnant to this United States constitutional provision. The courts, however, have held that the appointment of special policemen is not a delegation of the governmental power to private individuals, since the power of appointment, direction, and removal of such special policemen is vested in the police commissioner, and the private employer merely pays the salary of the men so appointed.

A word should also be said regarding the manner in which these special policemen are generally appointed. The private employer engages the men and then asks the police commissioner to appoint them as special officers. Such an application is made in writing and is referred by the chief officer of the police department to the precinct commander for an examination into the character of the employer and of the employee. Employers engaged in criminal operations will naturally have their requests refused, but the examination into the character of the applicant for the position is often perfunctory. If the application is favorably acted upon by the precinct commander, the

applicant is appointed a special policeman, sworn in at headquarters, and required to report monthly at headquarters for instructions. The employer is required to pay such an officer a minimum salary fixed by law and the officer is given a shield or badge and is required to provide himself with a uniform prescribed by the commissioner.

This uniform is generally the same for all special officers, and as a general rule it is of a character distinct from that worn by the regular policemen. It is important that the uniform should be different from the uniform worn by the regular policemen, since otherwise offenses and indiscretions committed by the special policemen may be unjustly credited to the regular police, with the result that the respect in which the regular police is held by the public may be impaired. In New York City there was recently a good example of such a condition of affairs. The city railway companies which employed a large number of special policemen suggested to the police commissioner that their officers be permitted to wear the dark-blue uniform which is similar to that worn by the regular policemen, with only a distinctive shield, since the public did not seem to respect the gray uniform of the special policeman. When the police commissioner granted this request, complaints were at once heard of the brutality exhibited by the police in handling railway passengers and it soon became apparent that the special policemen who had the interests of their employers principally at heart would have to wear a distinctive uniform to prevent the people from attributing to the regular police force the lack of discretion or worse faults of the private policemen.

There are two principal reasons which induce private employers to seek for their employees the privileges of a special policeman. In the first place, the uniformed employee commands more respect from the public than the ordinary employee, but since the employer might put his ordinary employee into a uniform, if he so desired, it is apparent that this is insufficient to explain this desire of

the employers satisfactorily. The real explanation is the immunity, which the employer of the special policeman enjoys, from damage suits in cases in which the employee makes a mistake or exceeds his legal rights in making arrests. A private citizen who under a mistake of facts arrests an innocent man is liable in damages to the aggrieved party, and if such an arrest is made by the defendant's servant or employee, the master must respond in damages on the principle of *respondet superior*. In the case of a regular policeman there is no such liability, if he acts upon reasonable suspicion, and in no case is there any liability on the part of the policeman's employer, since the city is not liable for the negligence of its officers in the discharge of a public governmental function such as the police service.¹ In the case of special policemen the courts have inclined toward the view that these special policemen are acting as agents of the state in preserving the peace and that the private employers, even though they pay their salaries and direct their actions, are not liable in damages for a false arrest made by them, unless the act of the special officer is clearly outside the scope of the police officer's duties. Although this decision seems to be in line with the weight of judicial authority in the United States, it seems to work rather unfortunately in actual practice.

Police sergeants quite generally know that the number of prisoners arrested by special policemen in department stores on a charge of petty larceny or shoplifting, as it is commonly called, and discharged by the magistrate in the morning after a brief hearing is proportionately larger than that of any other class of prisoners arraigned. When we recollect that the majority of these prisoners are women and that they are almost invariably women of the great middle class of society, we see that the individual hardship imposed by these practices is exceedingly large. It is somewhat difficult to prove the actual cause of this large number of unjustifiable arrests. It is improbable that these arrests

¹ Goodnow, *Municipal Home Rule*, 135.

are caused by carelessness, since if they were caused by carelessness, they would quickly result in the discharge of the careless officer by his private employer. It has been suggested that many of these arrests are made by a private detective who hopes to ingratiate himself in the favor of his employer in this way, by proving himself alert and efficient. Some cases undoubtedly do occur in which the special policeman makes an arrest merely to show that he is attentive to duty, and the records of our criminal courts show that sometimes he even arranges with a professional criminal to visit his store so that he may receive credit for causing his arrest. But here again the fact that such practices are contrary to the best interests of the employer will tend to diminish the frequency of their occurrence.

The only way in which such unjustifiable arrests accrue to the benefit of the employer is when they are made for the purpose of protecting the employer from civil suits for damages, and it is the opinion of the writer that the immunity accorded by our courts to the employer of the special policeman who makes a mistake in causing the arrest of a suspected individual is largely responsible for the great suffering which is imposed upon innocent individuals by being arrested by a store detective when they have not been guilty of any wrong-doing. The professional shoplifter, like all professional criminals, is well versed in her trade and can be arrested only with considerable difficulty. The shoplifter is generally a woman who is well equipped for her criminal operations, and as it is seldom possible to discover her while committing the act of petty larceny, it is necessary to search her person in order to discover whether she carries any goods in such a manner as to indicate their contraband character. When an innocent woman has been subjected by a store detective or his female assistant to such a search of her person, she has a cause of action against the proprietor of the store for false imprisonment and for assault, as well as for the indignity of

being subjected to a personal search. It has, therefore, become the custom in the large department stores to give to the woman who has been suspected and searched the alternative of signing a paper acknowledging that she has attempted to commit petty larceny in the store and releasing the proprietor from all liability in consideration of being released from custody, or of suffering a night's imprisonment in the police station.

Some women will accept the more convenient alternative, but the honest woman naturally rebels against signing a confession of a crime which she has never committed. The result is that many women are unjustly deprived of their liberty and subjected to the horrors and torment of a night's imprisonment in a police station, although they are absolutely innocent. The next morning when the prisoner is arraigned in the police court the case is generally compromised, and the complaint withdrawn if the prisoner is willing to sign the release without the accompanying confession of theft. But if the prisoner is still unwilling to sign the release the proprietor of the store produces one or two saleswomen who swear that they think they saw the prisoner attempt to take something in the store, and the evidence being unsatisfactory the prisoner is discharged after a judicial hearing before the magistrate. Such a prisoner is then discharged not as acquitted, but because there is not sufficient evidence to warrant her further detention, and as the court has not found her innocent of the charge she has no cause of action for damages against the department store. If the arrest had been made by a private employee of the store he would act at his peril, and if he failed to prove his case against the prisoner in court, he and his employer would be liable in a civil action for damages. But a police officer, whether a regular policeman or a special policeman, is protected if he makes an arrest upon reasonable grounds of suspicion, and the employment of a special policeman accordingly protects the store management, even though it works the greatest injustice up-

on the unfortunate person who is unjustly suspected of theft.

Railroads, though generally operated in America by private corporations, are accorded many privileges which are ordinarily associated with the public authorities. The right of eminent domain is one of these privileges and another is the right of employing men who are vested with police power. Such special railway policemen are required for three distinct purposes: to guard the property of the railroad company from trespassers, to maintain order among the passengers, and to guard the property of the railroad in case of strikes or labor disturbances. The business of operating a railroad, even when it is carried on by private individuals, is a business which is so peculiarly affected with a public interest that to a large extent what injures the railroad corporation also injures the public. Though the railroad company suffers pecuniary loss, when by reason of an improper patrol of its right of way trespassers are allowed to walk upon its track or ride upon its trains and are injured or killed, the public suffers far more when its citizens are maimed or killed. Thus the protection of private property from trespassers becomes in the case of a railroad company a matter in which the public is very properly interested.

Because of this interest it is perfectly legitimate that the employees of the railroad company, whose duty it is to guard its right of way from the encroachment of trespassers, should be granted police power by the state. Most of the large railroads maintain a force of railway police who attend to this police function in an admirable manner.¹ The need of such a special force of railway police is accentuated by the fact that the railroads run not only through well-policed cities, but also through rural districts where the police force is often inadequate. Whenever a railroad company fails to maintain an efficient police service, the trespassers not only encumber the right of way but also attack and rob the passengers.

¹ Flynt, *Munsey*, xxii, 658.

The second function of the railroad police is the protection of the passengers. In Germany where the railroads are operated and owned by the government every railway conductor is a special policeman. The motto of the German educator is to train the young under his care so that they will become self-supporting, god-fearing, and obedient subjects. In this motto the emphasis is placed upon the word "obedient," and the subjects are made self-supporting and god-fearing because it is thought that in this way, better than in any other, can they be made obedient. The German people are more submissive to authority than are the Americans, and whatever may be the disadvantages of such submissiveness, it has the great advantage of making the German Empire a country which is exceedingly uncomfortable, not only for the professional criminal but also for the occasional offender. Professional criminals are either imprisoned for long terms or placed under strict police surveillance, so that they cannot injure the community, and the occasional offender is deterred and prevented from embarking upon a criminal career by the constant presence of official authority. The military parades, which in Germany are considered important social events, have an important bearing upon the maintenance of good order in the cities and towns, and similar instances of the presence of a superior official authority can easily be cited.

The vesting of the police power in all German railway conductors is another instance of the same care which is taken to prevent any possible breach of the peace. The Germans are by nature not only a law-abiding people but also a submissive people. The vesting of the police power in so many officials does not, therefore, trouble them much nor interfere with their personal liberty. In the United States, on the other hand, the fact that the railroads are managed by private corporations whose interests are not always in accord with the best interests of the public, and the further fact that the American people are more jealous of their personal liberties and less submissive than the

German people have prevented the conferring of the police power upon railway conductors in most of the states. The policing of the railroads is under the control of a special body of railroad police, organized, equipped, and paid by the railroads, to whom the state gives no police powers. This body of railroad police is quite efficient in keeping the railroad free from trespassers and in protecting passengers from well-known professional criminals, while in the case of ordinary breaches of the peace the railroad employees must call upon the local police authorities. In the rural districts and on the great steam railroads this arrangement seems to be fairly sufficient for the protection of the passengers, but in the cities the situation is far from satisfactory.

In some of the larger American cities passengers are subjected to two great dangers, while travelling on the street cars,—professional pickpockets and hoodlums. An efficient municipal detective force could easily rid the city of the former and an efficient police force might be able with the co-operation of the police magistrates to suppress the latter. But neither of these two favorable conditions seems to be present in many American cities at the present day. When professional pickpockets ride on the same cars all day and every day they naturally become personally known to the conductor of the car, but since these conductors do not have any police powers, they are unwilling to make arrests, both because (as they express it) "it is not what they are paid for," and also because the street-car companies do not encourage such arrests, which might involve them in civil actions for damages if their conductors made a mistake.

Hoodlumism is even more difficult to deal with. It is disorderly conduct on street cars caused by exuberance of animal spirits on the part of young men and boys, particularly on Sundays and holidays. The participants are not criminals, but they have an utter disregard for the rights of their fellow passengers, and by their coarse language and insulting remarks, as well as by actual assaults, they render street-car travel uncomfortable for men and dangerous for

women. The police arrest these offenders and make every reasonable endeavor to break up these practices. The fault seems to lie with the magistrates who discharge the prisoners after fining them a few dollars. Many of these offenders consider it worth a few dollars to have "a day's fun," as they call it.

Although both of these conditions could easily be remedied by granting to the street-car conductors police power, it is doubtful whether such action would be wise. The employment of special policemen by some street-car companies in New York City has not proved entirely satisfactory, principally because the interests of the street-car companies are so often not in accord with the interests of the general public. It would seem that the thorough reorganization and reformation of the detective bureau and a more intelligent co-operation between the administrative police and the police magistrates might be counted upon to accomplish the same result in a more satisfactory manner.

The third function of the railroad police is the protection of the railroad's property in case of labor disputes. This is essentially a function which the railroad police is called upon to discharge only in the case of abnormal conditions. When the peace of the community is disturbed by serious labor disputes it is extremely unwise to employ any private agents in preserving the peace and protecting property. The employment of special policemen under such circumstances carries with it many of the dangers of a system of feudalism. These are occasions when the majesty of the law must be upheld by the strong arm of the civil police authorities, or, if need be, of the military authorities, and under such circumstances the employment of private policemen serves only to aggravate the troubles which it attempts to cure.

This feeling has become so general in the United States that statutes have been passed in many of the States forbidding the employment of special police officers by rail-

roads and other large public service corporations under such conditions.¹ These statutes forbid the importation of non-residents to act as special police officers,² place the business of the private detective under certain statutory restrictions, and forbid the Government of the United States from employing in the government service any private detective.³ In some of the American cities, particularly in Washington, the city invests with police authority the employees of the street railway companies who guard the more dangerous crossings in the city. This practice would seem to be not only unobjectionable but even praiseworthy. It not only decreases the number of accidents which in other cities seems to be almost inevitably connected with the operation of fast moving cars along the crowded streets, but it also restores to regular police duty the policemen who in most cities are detailed from the regular uniformed force to attend to the guarding of crossings.⁴

The employment of private policemen by private citizens subject to little or no control by the public authorities can be justified only when such private policemen are employed to protect the lives and property of their employers, and under such circumstances their employment is a tacit acknowledgment that the regular police authorities are either unable or unwilling to furnish adequate police protection. Sound principles of police administration would not permit such a condition of affairs to exist, but practical expediency may demand that a police commissioner, whose force is far from being as large as it should be, economize the strength of his force by refusing to detail his police officers to positions where their services will be of more private than public value. To furnish the protection which is thus denied to the private citizen by the police department, the citizen must engage private policemen, and the author-

¹ U. S. Bureau of Labor, *Special Rpts*, ii, 275.

² Revised Statutes of Missouri, 1889, § 3772.

³ Acts of Congress, 1892, Chap. 208.

⁴ *Annual Reports, Washington Police*.

ization granted to the private citizen to employ private policemen may easily lead to conditions somewhat similar to those of feudal times.

That the danger of a semi-feudal tyranny is not only theoretical but also found in the actual practical conditions of municipal life is clearly evidenced by the newspaper reports of the action of the private policemen employed by street railway companies in some of our larger cities. Passengers are sometimes assaulted by these policemen for a violation of the rules of the railroad company and are treated otherwise in an officious manner, which is not consistent with the broad privileges of personal liberty guaranteed by our laws. A policeman who is appointed by and paid by a private employer will naturally have the interests of his employer more at heart than the interests of the general public and the state. Herein lies one of the greatest dangers resulting from the employment of private policemen.

Some private policemen undoubtedly render a valuable public service in supplementing a weak or an inefficient public police service. The weak rural police service is admirably supplemented and assisted by the services rendered by the special railway police employed by our large steam railroads, and the private police service maintained by private police organizations to guard the residences of wealthy citizens probably also renders some slight assistance in the maintenance of order and the prevention of crime, although their employment is due almost entirely to actual or fancied inefficiency of the regular police force. On the whole these private night watchmen who patrol some of our residence streets at night probably do not render as much service as they are commonly believed to render and their employment may easily lead to a demoralization of the regular police force in two ways.

The corporations hiring these special policemen frequently advertise that their men patrol all night and are vigilant in their attention to duty, while the regular policemen

frequently spend the night in bakeries or boiler rooms. This, when taken as an arraignment of the entire police force, is undoubtedly a slander. Such remarks when often repeated may easily induce weak policemen to neglect their duty, when they are falsely accused of neglect while attending to their duties conscientiously. Personal observation would seem to indicate that the private patrolman and the regular patrolman can spend the long winter nights much more pleasantly in each other's company neglecting their duties than the regular policeman alone, and the presence of the special patrolman is thus an incentive to the regular patrolman to shirk his work.

There remains one more species of private policeman of whom some notice must be taken, and that is the private detective whose position in modern society cannot be too strongly condemned. The detective is a spy at his best. The employment of one man to spy upon another can be justified only on the ground that very important public interests need protection. Such a justification society attempts to use when it employs public detectives who are members of the regular police force, but this justification fails completely when it is made in the case of private detectives. Private detectives are employed by private individuals or corporations to further their own selfish private ends. Their activities are of two kinds, civil and criminal, and in each field their influence is most baneful.

In criminal cases they are generally called in by one who has been robbed, when the regular detective force is unable to discover the thief. While the object of the regular detective force is to capture the thief and bring him to the bar of justice, the object of the private detective, who is hired by a private employer, and who has no interest in the administration of public justice, is merely to recover the stolen property. Through the medium of these private detective agencies the thief is often promised immunity from prosecution and a large sum of money for the return of the stolen property, while some of these detective agencies

have degenerated to such an extent that it is alleged they actually conspire with thieves to rob their patrons, so that they may obtain their fees for the recovery of the stolen property. Private detectives in civil cases are hardly less objectionable. They are employed most frequently in divorce cases to obtain evidence of marital infidelity. It is so well known among judges and lawyers that these detectives will obtain whatever evidence they are asked to obtain that their testimony is seldom received in court without corroboration. Indeed, it is an open secret among the members of the legal profession that these detective agencies frequently supply co-respondents in divorce cases and after arranging for an illicit meeting between the defendant and the co-respondent become a witness to the fact for which they have conspired.

The evils of the private detective agencies are seen at their worst in divorce cases and in their relations with criminals, when they sometimes compound felonies for the purpose of securing the return of stolen property and sometimes for their own private gain. These evils, together with the infringement of the personal liberty of the individual, which is the result of being shadowed by a private detective, have led many states to pass laws for the regulation of the private detective business. The state laws are generally statutes requiring private detectives and private detective agencies to obtain licenses before engaging in this business. The New York law on this subject is typical of those found in many of our states.

Any person intending to conduct the business of a detective or a detective agency must present to the comptroller of the state and file in his office a written application duly signed and verified by him and approved by five reputable citizens of the county in which it is proposed to conduct such business. This application must state the age, residence, present and previous occupations of the applicant, the name of the city in which the principal place of business is to be located and such further facts

as will tend to show the good character, competency, and integrity of the applicant. The comptroller, when satisfied from an examination of the application and such further inquiry and investigation as he may deem proper concerning the good character, competency, and integrity of the applicant, will issue to the applicant and deliver to him a license to conduct a detective business, upon the applicant's paying to the comptroller a license fee of one hundred dollars, and upon his executing and filing in the comptroller's office a bond with one or more sureties in the sum of two thousand dollars conditioned for the faithful and honest conduct of the business by the applicant.

This bond must be approved by the comptroller as to its form, manner of execution, and the sufficiency of the sureties. The license granted pursuant to this statute is for a period of five years and can be revoked at any time by the comptroller for cause shown. The bond is taken in the name of the people of the state and any person injured by a wilful, malicious, wrongful act of the principal may bring an action on the bond in his own name to recover the damages suffered by him by reason of such wilful, malicious, wrongful act. The statute expressly provides also that detectives who are employed by a registered detective agency or by a city police department need not be registered, since in the first case the principal will be held liable for the acts of his agents and in the latter case the city enjoys the immunity of the sovereign in the exercise of the state police function.¹

These statutes protect the liberty of the individual by preventing men of bad character and no financial responsibility from engaging in the detective business, and they also furnish an adequate remedy to any one who is injured by the illegal action of a private detective. But though much of the work of these private detective agencies is unqualifiedly bad the work of some of them is extremely efficient. One private detective agency has a contract

¹ New York, Laws of 1898, Chap. 422.

with the American Bankers' Association, an association of banks and bankers throughout the United States, formed for mutual protection, and this detective agency follows criminals who rob banks in one way or another,—forgers, check-raisers, defaulters, and safe robbers,—with such relentlessness, that the number of crimes against banking houses has apparently decreased appreciably within recent years. Thieves and criminals to a marked extent avoid robbing banks that are members of this association because of the fact that they know that it is almost impossible to enjoy complete immunity after they have once robbed one of these institutions.¹ Similarly a private detective agency did excellent work in Pennsylvania in ferreting out the notorious Molly Maguire criminals.²

The work of the private detective and police agencies is efficient and valuable in this country mainly where we feel the need of a national police and detective force. This is true in the case of the detective agency which serves the American Bankers' Association, as it is in the case of the special policemen serving our great steam railroads. Since under our constitution the Federal government has no general police power, it is quite probable that the private police and detective agency fills a real need in this connection and that it is performing its function quite efficiently. But where the private agency comes into competition in the municipal field with the public police force, its influence is bad, both on the discipline of the municipal force and on the administration of justice in the community.

¹ Pinkerton, *Report International Association Police Chiefs*, 1904, p. 50.

² Pinkerton, *North American Review*, clxxiii, 609.

CHAPTER VI

DISCIPLINE

A stern discipline pervades all nature, which is a little cruel, that it may be very kind.

SECTION I. POLICE TRIALS

Maintenance of Discipline—Courage and Justice—Nature of a Public Office—Power of Removal—Charges—Neglect of Duty—Failure to Pay Debts—Conduct Unbecoming an Officer—Trials—Formalities—Professional Counsel—Procedure in the Postal Service—Subject to Judicial Review—Trial Officer—Professional Experience—Duties—Difficulties—Courts-martial—Power of the Mayor—Other Disciplinary Authorities—Punishments—Severe Penalties—Police Removals in United States.

THE maintenance of discipline in a body of men is largely determined by the personality of the chief executive. That body is best disciplined in which there is the least occasion for the infliction of punishment. The best disciplinarian is frequently the man who manages his army of assistants with the least display of authority. The characteristics which distinguish the efficient executive from the inefficient executive find their direct application principally in cases in which the subordinates perform their work under the direct supervision of the superior, but they apply just as well to the larger administrative systems in which it is impossible for the chief executive to supervise the work of all his men. Where the administrative force is large or the duties to be performed require their performance within a large district,

we have two distinct forces working for the maintenance of a proper discipline. In addition to the influence of the chief executive, there are assistant disciplinarians, who are generally called inspectors. The *esprit du corps* of the force is, however, affected more by the character and disposition of the chief executive than by the work of the inspectors, who generally reflect the character and purpose of the chief executive. We shall now apply these general principles of administration to the police force.

The police commissioner or chief of police must be a strong executive. There is absolutely no possibility that a physical coward or a moral coward can make an efficient police commissioner or chief. Like the general of an army, the police commissioner must be absolutely fearless. This fearlessness is required not only in the dealings of the chief with his men but also in his dealings with criminals and in the formulation and carrying out of his official policy. As regards the maintenance of police discipline, for example, the policeman who is called upon almost daily to risk his life in the performance of his duty cannot in the very nature of things have that respect which every subordinate must have for his administrative superior, if his superior is a coward. This is one of the dangers which we encounter in America, when we choose our non-professional heads of the police force from civil life. There is more danger of selecting a coward from civil life than from the ranks of the police force or from the ranks of the army.

Assuming that the police commissioner is absolutely fearless he must, to maintain the proper discipline of the force, be just and honest as well. No man can expect to receive any praise for being honest, yet the fact that in public life, as in private life, we sometimes meet with dishonest men renders it necessary that we emphasize the quality of honesty. As regards the characteristic of justice, on the other hand, some men are born with a keen sense of justice, others can acquire it only by a long course of legal training or legal reading, while still others seem to be

absolutely unable to get that judicial frame of mind so necessary in a man who is to maintain the discipline of a large body of men. The executive who, lacking a keen sense of justice, punishes those subordinates who do not deserve punishment and rewards others will tend to alienate the respect as well as the affection of the subordinates.

And finally the chief of police, while vigilantly maintaining the discipline of the force by such stern measures as the occasion may demand, must, to be successful, bear constantly in mind that his subordinates are men and not machines. This kindly feeling is absolutely essential to efficient administration. As one able administrator recently remarked to the writer: "Under the regulations my men are forbidden to sell tickets of any kind but in the case of their annual entertainment, the proceeds of which are devoted to their sick and death benefit funds, I am inclined to stretch the regulations all I can. Provided that they do not actually solicit contributions or actually and aggressively canvass to sell tickets, I do not interfere with their endeavors to raise money for so worthy a cause." That man sympathized with his subordinates and though he knew how to be stern, when acting as a trial judge, the very knowledge which his subordinates had that he sympathized with them and with their trials made it unnecessary for him to inflict as much punishment as if his employees felt that "the boss did not care for them anyhow."

In an organization such as the police force, which is modelled on a quasi-military plan, the necessary rigor of the discipline gives many opportunities for the display of a kindly interest by the chief of police and by the other supervising officers. Administrative regulations or customs which keep the men from their families more than is absolutely necessary for the efficiency of the force make the men surly, and estrange them from their officers. When due to the lower supervising officers such practices become unbearable oppression. A police captain, for example, can,

by denying to a policeman such little privileges as extra leave for meals or special leave in case of illness in an officer's family, practically force the policeman to resign. On the other hand, a police chief or a police captain who takes a friendly interest in his men, and bears constantly in mind that they are human beings and not mere machines, will get a hearty response to his commands and suggestions, which will result in a greater absolute administrative efficiency and an efficiency easily distinguished from the perfunctory obedience which a subordinate gives to his superior, merely because the person is a superior who must be obeyed.

The average educated layman, if asked for the distinction between a public office and a private employment, would probably emphasize the definite tenure of the public officer and the fact that he cannot be removed except for cause, while a private employee can be discharged at any time by his employer. This, however, is not strictly true from a legal point of view. While it is true that to constitute a public office the officer must generally have a fixed term, tenure, and salary, none of these is absolutely essential. Even were a term or a tenure required to constitute a public office, this would not mean that the officer could not be discharged except for cause. An officer is said to have a term or tenure when he holds his office independent of all other circumstances, until he has been removed in the manner prescribed by law. Such a removal may be upon charges and an opportunity to be heard, it may be for cause and after trial, or it may be in the discretion of the removing officer. The true distinction between a public office and a private employment lies not in the manner in which the official relation is severed but in the manner in which it is formed.

A public office finds its source in some constitutional or statutory provision, while a private employment finds its source in a contract. When a statute provides that the public printing shall be performed by a public printer and the statute defines his term, tenure, and salary, the public

printer is an officer, while if the statute simply authorizes the governor to have the public printing performed in such a manner as he may direct and appropriates a sum of money for that purpose, the public printer is a private contractor.¹ The popular notion that a public officer enjoys a fixed tenure, until he is removed as the result of a trial upon charges, has, therefore, absolutely no foundation in legal principle.

It is a general rule of the law that in the absence of a constitutional or statutory provision the governmental authority which appoints an officer can remove him in its discretion. There need be no trial upon charges nor even any legal cause specified for the removal. It is true that in the case of many positions the statute now prescribes that removals shall be made only upon charges, but such a statutory provision has been interpreted by the courts as guaranteeing to the officer removed merely the privilege of having brought to his attention some charge which, if proved, would tend to disqualify him from the efficient performance of his duty. The officer is not protected to the extent that the removing officer must actually prove the charge.

If the superior officer, under a statute which permits removals only upon charges and after an opportunity to be heard, charges his subordinate with drunkenness and the subordinate denies the charge when he is given an opportunity to be heard, the removing officer can summarily discharge him. The statute has been complied with, for the superior officer has specified a charge which, if proved, would disqualify the subordinate. Whether the subordinate who is falsely accused of an offense of which he is not guilty could sue his superior for slander is a legal question which has not yet been passed upon by the courts.

In only a very few instances have statutes been enacted which require that officers be removed only for cause and after a trial upon charges. Such statutes have been generally confined to members of the uniformed municipal police and fire-fighting forces. Furthermore, this practice

¹ *Brown vs. Turner*, 70 N. C., 93.

of according to the members of the uniformed police and fire departments the right of being continued in their official positions until they have been tried upon charges and found guilty is confined almost exclusively to the United States. In European countries the chief of police can remove a police officer in much the same way as a private employer discharges an employee or in the same way as public officers can be removed by their superiors in the United States in the absence of a statutory provision on the subject. It would seem that the statutes prescribing a trial upon charges as a condition precedent to a lawful removal of policemen were enacted because previously policemen had been frequently removed for political reasons and such removals tended to demoralize the police force.

The simple requirement that there shall be no removal except upon charges and after an opportunity to be heard is not sufficient to protect the subordinate, since the courts have construed this as requiring simply the formality of preferring charges which if proved would be sufficient cause for removal, without requiring that they be proved. Accordingly, in those few cases in which removals are permitted only after a trial upon charges, the statutes or the regulations of the police department framed and promulgated by the police commissioner under the authority of the statute prescribe with considerable detail the nature of the charges which may be preferred against policemen and the formal requisites which must precede the trial. As regards the nature of the charges which are most frequently brought against policemen under these rules, it may be said that they are generally such as actually disqualify the policeman from performing efficiently the duties of his office or else demonstrate that he has failed to perform them efficiently.

The most frequent complaint against policemen is that of neglect of duty which may be defined as the failure to perform some duty which is imposed upon the police officer by the statutes, the regulations, or the customs of the department. The charge of neglect of duty may comprise

a serious charge or a trivial offense. The neglect of duty may consist merely in failing properly to relieve his partner on post or in failing to report a dead cat on his beat. Such offenses are comparatively unimportant; yet if the discipline of the force is to be maintained, they must be punished. Or the neglect of duty may be more serious, such as permitting an arrested felon to escape from his custody or being absent from post. The penalty inflicted will naturally vary with the seriousness of the offense committed.

As the charge of neglect of duty refers to some failure on the part of the policeman to fulfill his official obligations, the charge of conduct unbecoming an officer refers to some failure on his part to fulfill his private obligations. The policeman is, in the first place, subject to the same laws as his fellow-citizens and for a violation of the law of the land he is amenable to the process of the criminal courts. He enjoys no legal immunity by reason of his official position, except only such immunities as may be absolutely necessary for the maintenance of the integrity and efficiency of the police force. He is liable to arrest on the warrant of a magistrate, and upon conviction he may be subjected to fine and imprisonment. The chief of police has no power to protect him from the law. In addition to these statutory obligations which the policeman must fulfill in common with the ordinary citizen, the law, since it confers upon him powers which are not conferred upon the ordinary citizen, demands of him more than is demanded of the ordinary citizen. Intoxication in the case of an ordinary citizen is a minor offense, punishable generally by a small fine, but if a policeman who is armed with a revolver and has the power of arresting citizens becomes intoxicated, he has it within his power to do far more damage than any private citizen is likely to do.

If a policeman is convicted of a felony, this operates *ipso facto* in most American cities to terminate his official position, but habitual intoxication, which may do more injury to the citizens of the city than the commission of a single felony

by a policeman, does not *ipso facto* affect the policeman's official status. It is for this reason that the police regulations must supplement the statutes of the State and provide for the punishment of policemen who habitually conduct themselves in their private relations in such a manner as to prejudice the good discipline of the police department and endanger the citizens of the community. The city demands of the policemen that they conduct themselves at all times in the same manner as the better class of its citizens conduct themselves. If they fail in this requirement, they are tried on charges of conduct unbecoming an officer. Intoxication and sexual immorality are generally specified as separate charges and the general charge of conduct unbecoming an officer is made to cover all those minor offenses which it is unnecessary to enumerate here in detail, but the commission of which differentiates the loafer from the true gentleman. The policeman who habitually fails to be clean in his person or whose uniform is not clean and in good repair, or who is not clean-shaven, if he does not wear a beard, would be most likely to be brought to trial on charges of conduct unbecoming an officer.

Another class of cases which comes within the same category is that of policemen who fail to pay their just debts. It seems an anomalous condition of affairs to fine a policeman several days' pay for his inability to pay a just debt or his unwillingness to pay an unjust debt, and yet that is exactly what is being done every day in the year. This procedure is defended on the ground that the police department should see to it that its policemen act as gentlemen, and the failure to pay one's just debts is conduct unbecoming an officer. It is further urged that a policeman contracts most of his debts on the strength of his official position. The practical result is that the police department is made to play the rôle of a collection agency, and although some endeavor is made to prevent the collection of unjust debts through the agency of the police department, it is not always possible to accomplish this result.

Debts which are absolutely illegal, such as debts contracted by a policeman in endeavoring corruptly to influence his promotion, are, of course, never collected by the police commissioner. Other debts, however, for the non-payment of which the policeman may have a just defense, he will be compelled to pay by the threat of being brought up on charges before the commissioner. It is admitted that every man should pay his just debts, but it is doubtful whether it is expedient to enforce this moral and legal obligation by means of administrative compulsion. A policeman can be sued in the ordinary courts and compelled to pay his debts. If a judgment is recovered by a creditor in such a suit, the property of the policeman, with the exception of such property as may be exempt from execution under the law, can be taken by execution. If the debt is not one which can be enforced in the courts, it is extremely doubtful whether the police commissioner should interfere. Furthermore, it is not only anomalous but absurd to fine a man several days' pay in order to compel him to pay a debt. After being fined in this way he is less able to pay the debt than he was at first.

The system in force in the United States Post Office Department would seem to be much better and entirely free from objection. Complaints against officers of the department who are delinquent in the payment of their debts are received by the department from creditors. The department sends to the creditor a formal acknowledgment of the receipt of the complaint. Beyond this formal acknowledgment the department shows the creditor no attention. The complaint is submitted by the department to the debtor official's immediate administrative superior with a request that the matter be brought to the debtor's attention and a report made to the central authorities in Washington. The fact that such a complaint is entered upon the efficiency record of the officer and that it is brought to the attention of the officer's superior tends to make every officer pay his just debts; but the department is not made

to act as a collection agency, because it treats the complaining creditor, not as a citizen who is insisting upon his legal right, but merely with cold civility. The administrative efficiency of the department as well as the individual liberty of the officer is protected, since if the papers in any case show that the officer refused to pay a just debt which he incurred upon the strength of his official position, or if the officer persistently refuses to pay his just debts and has many debt complaints brought against him, he would undoubtedly be promptly discharged from the service.

Of acts unbecoming an officer which are generally considered separate offenses under the police regulations sexual immorality and intoxication are the most important. If a policeman is convicted of a felony this deprives him *ipso facto* of his official position but acts of immorality may be committed by a policeman, particularly acts of sexual immorality, which are not punished by the criminal law, although they impair his efficiency as an officer so much that he should be tried on charges before the commissioner and removed from the force if found guilty. Similarly, intoxication, which in private life is not considered a serious offense, and which is not punished by our criminal laws, unless the intoxicated individual becomes disorderly, is an exceedingly serious offense in the case of a policeman, who may inflict serious injury upon a citizen while in a drunken condition. Intoxication is also in most police departments considered a separate offense, for which a policeman may be tried and fined or dismissed from the force.

Another offense is that of absence from duty without leave, which operates as a voluntary resignation, but which also may be made the subject of charges. The seriousness of this offense lies in the fact that if it were not punished, a policeman might desert the force in a case of emergency and rejoin the force after the emergency had passed. The offense is essentially one which belongs to a military body or to a force which is organized on military principles. Many other unimportant offenses for which a policeman can be

tried may be conveniently grouped under the head of violations of the rules and regulations. A book containing the rules and regulations for the government of the uniformed force is given to each policeman when he joins the police force, and for the violation of any of these regulations he may be punished after a trial, the penalty depending on the importance of the rule which has been violated.

An administrative trial is a very informal proceeding. The courts have decided under the general New York civil service law, which requires that an officer be given a hearing before he is dismissed, that the law is sufficiently complied with, if the charges are formally brought to his attention by his superior, and if after he has denied his guilt he is summarily dismissed, provided that the charges were of such a character that, if they had been proved, they would have been sufficient ground for his removal. In the absence of civil service legislation not even such a formal hearing is required and an administrative officer can dismiss a subordinate whom he has appointed without assigning any cause and without giving him any hearing, provided such appointee does not have a fixed term. Administrative efficiency is undoubtedly promoted by having the administrative procedure connected with the removal of an inefficient subordinate as brief as possible, or at least as brief as is consistent with the demands of justice.

In the commercial world the worthless employee is discharged without ceremony, and a private employer would feel himself considerably embarrassed if he were required to conduct a trial or give an employee a formal hearing before he discharged him, although every just employer gives his employees several warnings and informal hearings before he discharges them. The only justification from an administrative point of view in according to subordinate public officers greater privileges in the matter of security of official tenure than is accorded to the private employee is that experience has shown that the natural result of the absence of such a protection is the discharge of subordinates

for political reasons. If subordinate public officials are not protected by a statutory civil service tenure, they will be removed whenever their superior is a man of the opposite political faith and the discharge of subordinates for political reasons undoubtedly leads to administrative demoralization. Yet the remedy which has been employed, of requiring in some cases a formal trial before the subordinate is dismissed from the official force, is almost as bad from an administrative point of view. In the New York Police Department this doctrine of a protected tenure has been carried further than in any other official organization in the world. The tenure of the New York policeman is protected principally by the peculiar historical development of the writ of *certiorari* by means of which an administrative determination resulting in the discharge of a police officer is reviewed by the courts, and the judgment of the court upon the facts of the case is sometimes practically substituted for the judgment of the removing officer.

The protected nature of the tenure is illustrated by the formal requirements connected with the police officer's trial before the police commissioner. The requirement that there must be formal charges filed in writing with exact specifications is salutary and free from objection. Indefinite charges and the employment of a careless phraseology in framing specifications can serve no useful purpose. The accused is entitled to know the exact nature of the charge which is brought against him, both for his assistance in the preparation of his defense, as well as to prevent his superior officer from discharging him unjustly. The second requirement is that the notice of the charges be personally served upon the accused. This likewise is as useful as it is necessary. Justice demands that every man be apprised of any charges which may be brought against him, and the more formal the service of the process the less danger will there be of secret actions which are contrary to the dictates of justice. The third requirement is that the officer be notified of the place and date of the trial. The necessity

for this requirement is so obvious as to require no further comment.

And fourthly, the privilege is accorded to the accused of being represented by professional counsel. Justice probably requires that there be accorded to a person who is accused of any offense or who is on trial before an administrative officer, the privilege of having somebody represent his interests. When an individual is on trial he cannot give to his own affairs that careful attention which is required. The surroundings are unfamiliar to him and the seriousness of the possible penalty which may be inflicted will tend to make the man nervous and unable to attend to his affairs properly and to his best advantage. When the case is one of an administrative subordinate on trial before his administrative superior, all of those circumstances which tend to disconcert the individual are greatly exaggerated. But the recognition of the fact that somebody should represent the interests of the subordinate is not equivalent to an admission that a professional lawyer is the person who will best serve that purpose.

The privilege which is accorded the accused to be represented by an adviser should be to further the interests of the efficiency of the department as well as the interests of justice. These interests need not necessarily be opposed to each other. On the other hand, the relation of attorney and client is one which is clothed by the law with certain definite rights and privileges, and some of the circumstances attendant upon this relation do not always work for the best interests of the administration. Even though theoretically the attorney owes some duty to the court of which he is an officer, he owes none to the administrative officer by whom his client is accused. Such an administrative officer is his opponent and it is the duty of the attorney to protect his client against the administrative officer in every lawful way that his knowledge, his acumen, or his ingenuity can invent. In this way the interests of the subordinate and the interests of the administrative system are completely divorced.

when the professional attorney is permitted to represent the accused policeman.

Legal technicalities are introduced into the proceedings, though they are entirely out of place before an administrative tribunal, and there is always grave danger that the attorney who appears before the administrative officer will be able to have the decision of the administrative officer overturned on an appeal to the courts, if it is unsatisfactory to his client. Such an elaborate administrative trial is probably not necessary to protect the interests of the subordinate and it is certainly demoralizing to the administrative efficiency of the entire police force. The reinstatement of dismissed members of the force, which amounts practically to a reversal of the careful and deliberate decision of the chief administrative officer of the police force by the courts, tends to lessen the respect in which the members of the force should hold their chief.

In this connection it is interesting to note how this same problem has been solved in the United States Post Office Department, an exceedingly efficient administrative organization, from which we have been able to draw some interesting conclusions in other parts of our present study. In the United States Post Office Department the administrative proceeding before the superior officer is brief and final. It is the kind of a proceeding which sends fear into the heart of the wrongdoer and gives hope and strength to the efficient officer. The accused letter-carrier or postal clerk is ordered to appear before the postmaster of the city and there in the presence of the postmaster, the chief of the clerk's division, and the superintendent of his station, the superintendent makes a formal complaint against the clerk or carrier.

The postmaster examines the complaining superintendent and the clerk who is being complained of, and the postmaster also examines the accused official's record. He asks the clerk for an explanation and since the strange surroundings may serve to disconcert him, even if he is

innocent, some postmasters accord to the clerks and carriers, as a courtesy and not as a matter of right, the privilege of having the president of their mutual benefit association, who is himself a clerk or a carrier, represent accused officials before them. This man is not a professional lawyer paid to get his client out of trouble, but a clerk who will bring to the postmaster's attention any facts which may serve to excuse or mitigate the accused's offense. Being himself a member of the official force and generally one of the most efficient members of that force, he is too much interested in maintaining the efficiency of the force to permit himself to stultify his position for the sake of the culprit. Furthermore if any president of the clerks' association should so far forget himself as to endanger the best interests of the service, his privilege of appearing for the fellow-members of the association would be quickly cut off. Thus is administrative efficiency and individual justice preserved in the greatest civil department of our federal government.

In the larger American cities the administrative trials of policemen who are charged with neglect of duty are conducted in almost the same manner as the trials in our criminal courts. In this way the police commissioner is deprived of his position as a superior who is endeavoring to rid his department of an inefficient subordinate and is practically put in the position of a prosecuting officer who must prove the defendant guilty beyond a reasonable doubt. This is true, however, only of the spirit of our law. Carefully collected statistics of our American police organizations show that it is only in a few of our largest cities that the police trials are conducted with all of the nicety and subject to all of the technicalities of criminal proceedings. In many cities the trials still retain in fact as well as in name the character of administrative disciplinary proceedings, but in New York, which probably presents an extreme example of this American tendency to sacrifice administrative efficiency almost completely in order that even the possibility of injuring an individual subordinate may be

removed, the police trials must be conducted with due regard for all the legal technicalities.

This is not a requirement of our statute law but has been introduced into our police system by a peculiar extension of the writ of *certiorari* in New York State under the Code of Civil Procedure.¹ The result is that the courts practically substitute their own discretion for the discretion of the removing officer, although it is a fundamental principle of our administrative law that the courts will not on the extraordinary writs interfere with the discretion of an administrative officer. This reversal of the decisions of the administrative officers by the courts upon appeal is exceedingly demoralizing and even though it is quite possible that the number of such reversals has been exaggerated, owing to the fact that most of the cases which are reversed by the courts are the cases of important police officers, yet this very circumstance shows the bad effect of the system upon the discipline of the force. Before examining the judicial appeal more in detail it will be necessary to consider the trials before the administrative officer.

These trials are conducted in accordance with the rules of law and of evidence, as they are practised in our regular courts. This demands that the administrative trial officer be a lawyer well versed in his profession. Legal training has great educational value and fits a man for almost any position in life, but it is not proper that the chief emphasis in the case of the administrative trial officer should be placed upon the officer's legal training. The placing of the emphasis on this qualification emphasizes not the broad general culture and training which prepares a lawyer for the intelligent and efficient performance of any duty, but rather the knowledge of those technicalities of the law and of the rules of evidence which serve to make the average layman distrust the lawyer. The administrative trial judge should, if possible, have enjoyed a legal training,

¹ *Political Science Quarterly*, 1905, No. 3.

but this ought not to be the only, nor even the most important, qualification which he possesses.

He must in the first place be absolutely impartial. Impartiality is generally an inborn quality, which may be cultivated by training and which is frequently much cultivated by legal training. Without it an administrative trial judge cannot hope to do justice, and when it has once become known that he is not absolutely fair, the discipline of the uniformed force will surely deteriorate. The second great qualification of the trial judge is an intimate knowledge of human nature. A lawyer may and frequently does possess this qualification, but not necessarily. This is not an inborn instinct but one which it is possible to cultivate by proper training. It comes from rubbing one's elbows with one's fellow-men and keenly observing their actions and their sentiments. The well-educated man may possess this quality to a larger degree than one who is not so well educated, yet frequently those who have enjoyed the benefits of a long course of training become so much attached to books that they lose their power of observation and of studying human nature.

The third qualification and the one which in principle ought to be emphasized more than either of the other two is a thorough knowledge of the police business. No man is competent to pass judgment upon his administrative subordinates unless he is himself an expert in the technical subjects which the subordinates are called upon to concern themselves with in the discharge of their duties daily. The police business has its technicalities like every other business, and it is absolutely necessary that the trial judge be well acquainted with them. A concrete example will serve to make this point clear. A large proportion of the officers and patrolmen of the department who are brought before the trial commissioner on charges are charged with neglect of duty, which may consist, in the case of a patrolman, in a failure to report a dead cat or a failure properly to relieve his patrolling partner, or in the more serious offense of

failing to discover a gambling house, or, in the case of a superior officer, in a failure to suppress illegal resorts in the precinct.

In almost all of these cases the defense which is generally offered by the accused is that he could not with due diligence have discovered the circumstances for the failure to discover which he is now accused. The trial judge who does not have an intimate knowledge of the police business himself cannot judge properly as to the validity of this defense and must rely upon expert testimony, which in the case of an administrative superior is not only humiliating but is also far from valuable. It is preferable to have a trial judge possessed of little general culture but with a thorough and intimate knowledge of the details of the police business than to have one who is a highly cultured and skilled lawyer with but a mediocre acquaintance with the details of the police business. The decisions of the former may perhaps be set aside by the courts on appeal, where a broad appeal to the courts is allowed, but the decisions of the latter are even more likely to be disrespected by the members of the force, thus resulting in the destruction of good discipline and the demoralization of the police force.

The principal duty of the trial commissioner or other officer conducting the trials of delinquent administrative subordinates is the maintenance of the discipline and efficiency of the administrative force. A second important and distinctly subordinate object is the doing of justice both to the civilian plaintiff and the accused subordinate. These two objects to be attained must be kept constantly in mind by the trial commissioner. If the doing of justice be made the primary object, cases will arise where, in the conscious endeavor to refrain from doing even the slightest injustice, the benefit of a very slight doubt will be given to the delinquent subordinate and the frequent recurrence of such cases will impair and ultimately destroy the discipline and efficiency of the police force. If, on the other hand,

the trial commissioner fails to keep constantly in mind that he must do justice to his men and to the public complainants appearing before him, he will lose the respect of both, and without this respect what is called discipline will be tyranny, which will be borne neither by the public nor by the men under his command. How to maintain the proper balance between administrative efficiency and individual justice may seem difficult when viewed from a theoretical point of view. In practice, however, it is a comparatively simple matter.

The trial commissioner must have an innate sense of justice which will prevent him from doing injustice, unless he makes a conscious effort to do so, and with such a nature the trial commissioner can bend all his energies to the maintenance of the discipline and efficiency of the force without fearing that he will do injustice to his men. Moreover, too much sentimental consideration ought not to be given to this subject of administrative justice. A public officer ought not to be considered even popularly as having a vested right to his office, of which he can be deprived only upon conviction as of a crime in a criminal court. His rights must, of course, be respected by the trial commissioner, but if a subordinate feels himself aggrieved by the decision of his superior officer, he is always at liberty to resign and to enter upon some other occupation as a means of livelihood. It cannot reasonably be said that service as a policeman disqualifies for other occupations. Substantial justice is all that a public officer can demand. He can only ask that his administrative superior shall not pervert the ends of justice to further his personal or political ends. If more than this is granted as of right, the discipline of the force is bound to suffer.

Individual police commissioners may and, indeed, should grant more as a matter of courtesy. Such courtesies ought to be frequently extended, but always as a matter of courtesy and not as a matter of right. In the United States national civil service the power of appointment, direction, and

removal rests absolutely in the discretion of the administrative superior, whose power is subject to but a single limitation, namely that which forbids removals for political or religious reasons. And even where it is alleged that a removal has been made on one of these prohibited grounds the courts will not interfere, but will leave it to the President's discretion to apply such corrective measures as may be needed. That the vesting of such a large power in the administrative superior tends to increase the efficiency of the administrative force is not denied by anyone, and the only excuse for the elaborate administrative trials in the municipal police departments is to be found in the fear that in the absence of such trials the men might be punished unjustly and for political reasons. The history of police administration in the United States tends to show that this fear is not merely theoretical, and for this reason it would probably do more harm than good to abolish the elaborate system of administrative trials which has grown up.

On the whole, the baneful influence of these trials is not so much in the elaborate safeguards which they throw about the accused official and the corresponding hindrances offered to the maintenance of administrative efficiency as it is in the technicalities introduced into these trials by the presence of professional lawyers. Defenses of the policemen themselves may be either conventional or ingenious, but they are not such as are calculated to deceive a man of average intelligence. If a policeman who is charged with reporting for duty in a soiled uniform pleads that he soiled it in arresting a prisoner, not much credence will be given to his defense if the police records show that he did not arrest any prisoner. Similarly, the good fellowship existing between the members of the force, though it may exasperate the trial commissioner, does not deserve any very severe censure, nor can it be said that it interferes seriously with the trial commissioner's work. If a policeman is accused of being drunk while on duty the offense may be proved to the satisfaction of the trial

commissioner quite as well if his friends swear that, though he was not drunk, he acted very queerly on that particular occasion, as if they admitted that he was drunk. In other words, in spite of the elaborate statutory provisions relating to the trials of delinquent policemen, the administrative efficiency of the department could be maintained at the same time that the individual rights of the policeman were protected, but for the technicalities introduced by the professional lawyer.

When in addition to endeavoring to arrive at the truth from the mass of evidence before him, much if not most of which is intentionally or unintentionally false, the commissioner is required to attend to the intricacies of the legal rules of evidence, to exclude hearsay and to admit opinion testimony only when properly admissible, to determine the preponderance of evidence according to legal rules which may be at variance with what his common sense would dictate,—when a slight error in procedure, though not affecting the substantial merits of the case, may result in the reversal of a decision by the courts on appeal,—under such circumstances the efficiency of the department can be maintained only with great difficulty. In addition to these difficulties resulting from the presence of professional lawyers at the police trials, the free right of appeal to the courts, the good fellowship existing between the members of the force, and the large amount of false testimony which is sworn to for and against the accused police officers, there is also the fact that many of the excuses offered by the policemen, which are false in ninety-nine cases out of a hundred, may in an individual case prove to be true and this circumstance seriously perplexes the trial commissioner.

The most common excuse of this kind is the excuse offered by the policeman who has been detected by his roundsman off post and in a saloon. This is probably one of the most serious violations of the rules and regulations of which a policeman can be accused. And yet if the



policeman pleads that he was in the saloon to get his rain-coat or to go to the toilet, this excuse, though probably untrue, may possibly be true. The result is that one of these excuses is almost always offered by the policeman who is charged with being off post and in a saloon. This difficulty might perhaps be obviated by forbidding policemen to enter saloons even for the purpose of using the toilet, were it not for the fact that on many beats there are no other toilet facilities than those offered by the saloons. The determination of the truth of the policeman's defense must be left to the sound discretion of the trial commissioner, but in cases of doubt too great leniency may impair the discipline of the force and too great severity may work injustice.

Quasi-judicial trials of police officers, such as those which we have described, are found only in our largest American cities. In the great majority of American cities policemen may be removed without trial. Intermediate between the system of quasi-judicial trials and the system of removals without trial there is the system of administering justice and maintaining discipline by a system somewhat similar to a court-martial. Although this system has some advantages over the system of quasi-judicial trials, it would hardly seem to be one which can be recommended for adoption throughout the United States. Of the seventy-five largest cities in the United States only two Pennsylvania cities—Scranton and Pittsburg—have adopted this system of court-martial. The fundamental principle of the court-martial is that the discipline is maintained and the punishment inflicted by the organization itself and not by some superior authority. Although the court-martial does not give to the accused a trial by his peers, such as is granted to a criminal when he is accorded the privilege of a trial by jury, it does guarantee to the accused officer that he be tried by his comrades, generally by men of the rank next above that which he holds. Thus in the Pennsylvania cities mentioned the trial board generally consists of pro-



fessional officers of the department lower in rank than the head of the department, but always at least one rank higher than the accused officer.

When the maintenance of discipline is thus placed in the hands of the uniformed force, the organization becomes to a certain extent a self-governing organization, and this undoubtedly has some advantages. The judges are police experts who from their own experience are able to discriminate easily between *bona fide* defenses and sham excuses. Similarly, self-government leads to a better morale among the members of the force, who will themselves prevent violations of the rules, as well as suppress and punish violations which occur. But complete self-government has not been found practicable in any American city, as far as the police department is concerned. In Scranton the self-government is more nearly complete than in Pittsburg, since in Scranton the action of the police trial court is final as soon as it has been approved by the director of public safety. Such approval is generally a matter of form only, although the existence of the right of disapproving the findings of the trial court may serve as a check to indiscreet action. In Pittsburg, on the other hand, the approval of so many municipal authorities is required before the finding of the police trial court becomes effective that the trial court is practically merely the first body to investigate the charges against the police officer. In Pittsburg the findings of the police trial court must be approved by the board of aldermen, the board of public safety, and the director of public safety. In the army and the navy, the chief advantage of the court-martial is the quickness of action and the disregarding of some of the technicalities and formalities of the regular courts which it insures. In the administrative trials of police officers quickness of action is not absolutely essential and the technicalities of the regular courts need not necessarily be made a part of the procedure.

Although in many American cities the officer into whose hands the maintenance of discipline is placed is the non-

professional commissioner or board of police or public safety, yet an actual census of the largest cities¹ shows that this system, which is the one logically to be expected, is not followed in a majority of the cities. In the seventy-five largest cities of the United States the power of removing delinquent police officers, which is the most important part of the disciplining power, is vested in the non-professional head of the police department in only thirty-four cases, while in fourteen cases this power is vested absolutely in the mayor. There is probably no serious objection to vesting this power in the mayor from a theoretical point of view, if the mayor is to be considered the head of the municipal government in the same sense that the president is the chief executive officer of the United States government; but in very few American cities does the mayor possess such an influential position.

Although he is, as in England, a subordinate of the municipal council only in a few southern cities, his powers are in all the cities, except a few of the very largest in the eastern part of the United States, subject to important limitations, which are imposed either by the council or by the central state government. Moreover, the mayor is a thoroughly political officer and when the power of removing police officers, which should be a purely administrative function, is vested in a political officer, it is difficult to prevent political considerations from influencing the removal of policemen. It is true that the non-professional head of department is also a political officer and his tenure is in many cases dependent upon the pleasure of the mayor, but even under such conditions it is much less likely that political considerations will influence the non-professional head of department in making removals than when such removals are made directly by the mayor. The mayor's duties are so largely political and the commissioner's duties are so largely administrative that political considerations are less likely to influence the commissioner than the

¹ Cf. Table 7, p. 306.

mayor in the discharge of his administrative duties. Moreover, if a commissioner should prostitute his administrative powers for political purposes it is much easier to secure his removal by the mayor than it is to oust the mayor himself, if he is guilty of such an offense.

The twenty-seven other cities considered have fourteen different systems of discipline, as indicated by the authority which has the power to remove delinquent policemen. In five cities,—Cambridge, Massachusetts; Haverhill, Massachusetts; Lawrence, Massachusetts; Somerville, Massachusetts, and Portland, Maine,—the mayor has the power of removal subject to the approval of the board of aldermen. This makes the subject of police removals a purely political question. In two cities of Ohio, Cincinnati and Columbus, the mayor makes the removals, but the police officer is allowed an appeal to the board of public safety. This system affords an administrative appeal which, it is hoped, may check removals made for political reasons. In Camden, New Jersey, and Lynn, Massachusetts, the removals are made by the police committee of the city council,—a transfer to our American municipal government of a system in use in England, where the council is the principal municipal authority.

In Chicago, Illinois, and Nashville, Tennessee, removals are made by the civil service commission. The object of this system is to separate the subject of police removals entirely from the domain of politics. The mayor is a purely political officer and the police board or commissioner, being the appointee of the mayor, may also be influenced by political considerations, but the civil service commission being non-partisan or bi-partisan in character is the body in the municipal organization which is supposed to be least affected by political considerations. In Charleston, South Carolina, and Toledo, Ohio, removals are made by the chief of police subject to the approval of the mayor. In Des Moines, Iowa, and New Orleans, Louisiana, they are made by the chief with the approval of the board of police,

and in Milwaukee, Wisconsin, and Tacoma, Washington, by the chief alone. When removals are made by the chief professional officer of the force, the administrative efficiency of the force is well protected, while an administrative appeal to the non-professional head of department or to the head of the municipal government would seem to be a reasonable protection of the policeman's private rights.

In Denver, Colorado, removals are made by the police board but an appeal may be made to the civil service commission, a provision which is intended as a check against removals for political reasons; in Memphis, Tennessee, removals are made by the chief of police with the approval of the legislative council,—a weak system from the point of view of administrative efficiency; in Peoria, Illinois, by the chief on the order of the mayor,—a system which is but little more satisfactory. In Portland, Oregon, removals are made by the chief with the approval of the committee on police of the executive board and with the approval of the civil service board,—a cumbersome system which is calculated to make it difficult to secure the removal of delinquent police officers. In Seattle, Washington, removals are made by the chief, with an appeal to the civil service board,—a system which would seem to secure administrative efficiency while at the same time reasonably protecting the policeman's position. In Pittsburg and in Scranton, Pennsylvania, the system of police removals is modelled after the military courts-martial of the United States Army.

Having considered at some length the methods employed in conducting the trials of delinquent police officers in America, we shall next consider the judgments of the trial commissioners. In the cities of the United States this judgment may be either a dismissal of the charge, a reprimand, a fine, a suspension, a reduction in rank, or a dismissal. A dismissal of the charge carries with it no direct punishment, yet it remains as a slight stain upon the policeman's official record, since, though it may be the

equivalent of an acquittal, it may also indicate merely that the charges have not been proved to the satisfaction of the trial commissioner. When we bear in mind that the severity of the punishment inflicted depends upon the nature of the police officer's record and particularly upon the number of times that he has been brought before the commissioner on charges, we can easily see that a large number of complaints, which have been dismissed after trial, may induce the commissioner at some subsequent date to impose a heavier sentence for a comparatively slight offense than if the officer's record were perfectly clear.

The second judgment in the order of severity is the official reprimand. The official reprimand differs from the dismissal of the complaint principally in the fact that it indicates clearly on the officer's record that he has been found guilty of the offense with which he has been charged. It should properly be employed only where the offense is purely technical or where it is a slight offense committed by an officer whose record has previously been clear. Its function under modern conditions is to place a mark on the officer's record and to be a warning to him that any subsequent offense will be dealt with more severely. Theoretically the reprimand includes also a scolding by a superior officer, which is supposed to have a deterrent effect, but in practice this scolding is either omitted or is so purely formal that it loses much of its value. The third penalty from the point of view of severity is the fine or forfeiture of pay. This is an actual punishment, and though considered in administrative as well as in judicial circles the lowest grade of punishment, it admits of being graduated and thus may be made quite severe. The amount of salary which is forfeited generally varies from one-half day's pay for a technical violation of the regulations to as much as one month's pay for a very serious offense.

The maximum amount of the fine which may be imposed by the trial commissioner is generally fixed by statute, since otherwise a man could be practically dismissed from

the force by a judgment demanding the forfeiture of his salary for a long period of time. In many respects the fine or forfeiture of pay is an exceedingly useful and efficient punishment. Not only can it be graduated to suit all grades of offenses, but its effect is temporary like the offense for which it is inflicted. A policeman who is deprived of a share of his salary will furthermore probably make every endeavor to keep from violating the regulations or failing to do his duty in the future, particularly if he is married or has otherwise a family dependent upon him for support, since in such a case his wife will also use her best endeavors and influence to prevent the family income from being curtailed unnecessarily in this way.

When a delinquent police officer shows by repeated appearances before the trial commissioner that a fine, however heavy it may be, has no deterrent effect upon him because of its temporary character, it becomes necessary to inflict a more serious punishment of a more permanent character. Three such punishments are provided for,—the suspension, the reduction in rank, and the dismissal. In the absence of a statutory provision the rule of law would seem to be that a superior officer has no power to suspend a subordinate ¹ and that the salary of a subordinate who is illegally suspended continues to accrue in spite of such suspension. ² The decisions are, however, by no means in harmony on this point and the consideration of the decisions at common law in the different states is only of academic interest since statutes generally confer upon the chief executive officer of the police force the power to suspend policemen pending their trial upon charges.

This suspension is not a punishment but merely a measure taken to safeguard the public interests. Thus a policeman who habitually indulges in alcoholic beverages to excess might do very great injury to the public, if his police

¹ *Gregory vs. Mayor*, 113 N. Y., 416.

² *Emmitt vs. Mayor*, 128 N. Y., 117; *Wardlaw vs. Mayor*, 137 N. Y., 194.

power could not be taken from him until he has been tried and dismissed from the force. Suspension as a punishment is a suspension after a trial upon charges. This form of punishment has not found much favor in the United States, and the suspension of police officers for a definite period as a punishment for their offense is but seldom met with in American police administration. Similarly, policemen are seldom reduced in rank either permanently or temporarily as a punishment for their offenses.¹ Such a punishment can from its very nature be applied only to superior officers and the courts of most states are inclined to hold that where officers are promoted, as they generally are, after a civil service examination, the new office is a distinct office from which they can be removed by reduction to the ranks only when specially authorized by statute. Where the higher position is only a detail as is generally the case with the supervisor of patrolmen or roundsman, temporary or permanent reduction to the ranks is possible under the decisions of some of our courts, but the practice is not frequently resorted to in this country. It would seem that the penalty of reduction to the ranks would be a very efficient remedy in the case of superior officers and might properly be employed with good effect in cases in which a fine is inadequate and permanent dismissal too severe.

The most severe penalty which can be inflicted upon a police officer is that of dismissal from the force and if the facts warrant it the subjection of the dismissed official to the process of the criminal courts. The rule in the United States is that even while a man is a police officer he enjoys no special immunity from arrest, and if he exceeds his legal rights, he is subject to arrest and prosecution in the ordinary criminal courts like any other offender. Furthermore, his conviction of a felony operates *ipso facto* to sever his connection with the police force, and if an arrest for a misdemeanor involves moral turpitude, it may result in

¹ Cf. Table in Chapter IX, Section 2, *infra*.

the officer's being tried by his chief or commissioner and dismissed from the force. As a general rule police officers in the United States are dismissed from the force only when they have proved themselves incompetent by the frequency with which charges have been preferred against them, or when they have committed a felony or serious assaults, while drunk, or when they are addicted to the habitual use of intoxicating liquors to excess. It is largely to the fact that the penalty of dismissal is more frequently and more easily inflicted in England and in Germany that the higher efficiency of the police in those countries must in part be ascribed.

SECTION II. APPEALS

The Administrative Appeal—In the Police Department—The Judicial Appeal—The Writ of *Certiorari*—A Judicial Act—Province of the Writ—Questions of Law—Questions of Fact—Control of Administrative Discretion—Removals for Cause—Summary of the Law—Section 2140 in New York—The Ideal System of Discipline—The Proper Function of the Appeal.

An appeal from the decision of an officer deciding a question in controversy between two individuals or a question of discipline in public administration is accorded by statute primarily for the correction of any errors which the officer may have made. This is clearly evidenced by the fact that in many of our states the highest courts of appellate jurisdiction are not called courts of appeal, but rather courts for the correction of errors. The privilege of appealing is one of the greatest safeguards to liberty, for not only is it essential that every person be given the privilege of protecting himself against those errors which every human agency is liable to make, but it also serves in many cases as an effective check against the growth of that bureaucratic spirit in administrative officials which is so inimical to personal liberty. The right of appeal in controversies between private individuals has grown up with the history of our law, and frequently it has cost a bitter struggle to secure this right for the people. The right of appeal in

administrative law has seemed to the people a necessary corollary from its existence in the private law, but the function of the appeal in these two great realms of the law is not quite the same.

The purpose of the appeal in private law is exclusively the protection of private rights. In the public law there is a two-fold object,—the securing of administrative efficiency and the protection of the individual. In the administrative law there are, furthermore, two kinds of appeals,—the administrative appeal and the judicial appeal,—and although both of these appeals serve both of the enumerated objects, it may be stated generally that the prime object of the administrative appeal is the securing of administrative efficiency and the prime object of the judicial appeal the protection of the private individual. In the administrative law of America, the judicial appeal is more highly developed than the administrative appeal, and the natural result is that private rights are better protected than administrative efficiency is secured. The administrative appeal is found in a well-developed condition only in the United States national government, where both the private citizen and the subordinate official have generally the right of appealing from the decision of the officer making the decision in the first instance to a higher central administrative authority, and ultimately to a member of the President's cabinet. As far as the private citizen is concerned, this administrative appeal may exhaust his remedy or it may simply be a condition precedent to his prosecuting his judicial appeal, which is more frequently the case.

As far as the subordinate official is concerned, the prosecution of the administrative appeal to the cabinet officer generally exhausts the official's remedy, although there is always theoretically an appeal to the President, who can intervene and reverse the decision of his cabinet officer. The United States courts will generally not take jurisdiction of the appeal of a subordinate official,—not even where the

action of the superior officer in removing the subordinate is a violation of the civil service rules and regulations forbidding removals for political or religious reasons. If the civil service rules and regulations are violated, the courts hold this is simply a case in which the President may exercise his disciplinary powers and punish the superior guilty of violating them. By this system administrative efficiency of a high order is secured and the rights of the subordinate officials are reasonably protected.

In the commonwealths and in the municipalities of the commonwealths, on the other hand, there is seldom a well-developed administrative appeal. Confining our investigations to the municipal police departments, which are thoroughly typical of conditions in the commonwealth and municipal governments, we find that but few cities allow any appeal whatever from the decision of the removing officer and still fewer allow a judicial appeal. Of the seventy-five largest American cities,¹ forty-five cities allow no appeal from the decision of the removing officer to the courts in the case of the police department, and only twenty-one allow such an appeal, while in five cities the law was not ascertained and in four cities the courts had not yet decided whether a judicial appeal lay in such cases or not. Outside of the police department and the fire department such judicial appeals are generally unheard of. The administrative appeal is not much better developed in American municipalities.

A clearly defined administrative appeal is allowed only in Denver, Colorado, and Seattle, Washington, from the decision of the police board or chief to a non-partisan civil-service commission, and in two Ohio cities,—Columbus and Cincinnati,—from the mayor to the board of public safety. In each of these cases the appeal lies from a more partisan to a less partisan authority. While the appeal from the superior officer of the removed official to the non-partisan civil-service commission is sound in principle, it is some-

¹ Table 7, page 306, *infra*.

what more difficult to justify the appeal which is allowed in the two Ohio cities, from the mayor, who, though a partisan officer, is the head of the city government, to the board of public safety, which is the administrative superior of the removed official. But, though the clearly defined administrative appeal is not well developed in the United States, we have something in the nature of an appeal in the legal requirement that the approval of some authority other than the immediate superior of the removed policeman is necessary to validate the sentence of the superior. This approving authority is generally a thoroughly political authority,—the board of aldermen or the mayor. This requirement of the approval of a political municipal authority is not conducive to the highest administrative efficiency, because quite frequently a political officer can be influenced to disapprove the findings in a case in which the facts warrant the removal of the delinquent policeman, for reasons in no way connected with the efficiency of the police service.

Sometimes, as in Des Moines, Iowa, and New Orleans, Louisiana, removals are made by the chief with the approval of the board of police, and this would seem presumptively to be a very good system. From the point of view of sound municipal science, and bearing in mind the excellent system of maintaining discipline in the United States national government, it would seem that removals ought to be made by the chief professional executive officer, with the right on the part of the accused officer to appeal to the non-professional head of department, the commissioner or board of police. No further appeal to any higher administrative officer or to the courts is necessary for the protection of the policeman's rights, and certainly any more extended right of appeal may injure the efficiency of the force.

Mr. Bruce Wyman, in his treatise on administrative law, says that in the official service of the American city and state governments membership is given by election

and lost by judicial proceedings.¹ This rule, however, would seem to be purely statutory, since in the absence of statute it is the rule of the common law that whenever a superior officer has the authority of appointing a subordinate to an office, the term of which is not definitely fixed by law, there is implied in the power of appointment the power of removal.² This rule of the common law has been substantially adopted by many state constitutions. The popular notion that an officer can properly be removed only by judicial proceedings is strengthened by the fact that the state constitutions frequently establish a definite term for many officers. In such a case it appears as if, when an officer has been legally elected or appointed and has taken possession of the office, he has a right to the office until he has been removed by judicial proceedings. This idea is further strengthened by the development of statutory restraints upon the superior officer's power of removal. The judicial control over removals made by administrative officers is exercised by the granting by the courts of one of three writs —the certiorari, the mandamus, and the quo warranto,—when the aggrieved officer, after his removal from the force, prosecutes his judicial appeal.

The writ of quo warranto is used only where there is a contest between two men for the possession of an office, as where a successor has been appointed after the removal of the previous incumbent.³ In the police department, therefore, the quo warranto is used very infrequently, since it is difficult to decide that any particular policeman is the official successor of the policeman who has been removed, owing to the large number of men on the force and the constant occurrence of vacancies. Recourse is had by policemen in prosecuting their judicial appeal either to the writ of mandamus or to the writ of certiorari. The attitude of the courts to the administration is clearly defined by

¹ Wyman, *Administrative Law*, § 52.

² *People ex rel. Cline vs. Robb*, 126 N. Y., 180.

³ *People ex rel. Cowles vs. Ferguson*, 20 N. Y. *Weekly Digest*, 276.

their decision as to whether mandamus or certiorari is the proper remedy. Liberality displayed by the courts in granting the certiorari is evidence of a tendency towards administrative decentralization, because of the broad inquiry allowed on the return to the certiorari, while if the policeman is limited to the narrower mandamus greater administrative centralization and independence can be secured.

Mr. Clay Lawrence, in his study of "Police Removals,"¹ divides executive action into five classes: (a) Ministerial action which is mandatory and admits of no discretion. (b) Mandatory action which admits of the exercise of discretion in the manner of performance. (c) Mandatory action which admits of the exercise of discretion in the determination to act as well as in the manner of taking action. (d) Quasi-judicial action which may be either mandatory or optional and in which the procedure to be followed is fixed by statute, although discretion may be exercised in taking action. (e) Judicial action, the exercise of which may be optional, but in which the statute requires a full judicial procedure in arriving at a determination. At common law the administrative act of removing a subordinate was in no sense a judicial or a quasi-judicial act and it is only the statutory regulation of the procedure necessary for a legal removal which has given the act its judicial or quasi-judicial character.

The writ of certiorari is a writ used by the courts for the purpose of bringing up before them and reviewing the record in a proceeding had in a tribunal not acting in accordance with the common law,—*i. e.*, created by statute and possessing only a limited jurisdiction. The regular method of appealing from the decision of authorities possessed of general jurisdiction was by means of the writ of error and the extraordinary relief of the certiorari was granted only in cases in which the applicant therefor had no other means of relief. In England, as a matter of practice, the writ was

¹ *Political Science Quarterly*, xx, 71.

most frequently issued to justices of the peace who possessed both judicial and administrative functions. When the justices of the peace began to lose some of their administrative functions and became primarily judicial officers, the question arose whether the certiorari was the proper remedy to review the acts of officers discharging purely administrative functions and the courts began quite generally to lay down the rule that the writ of certiorari could be used only to review judicial acts.

In determining what is a judicial act, the courts may consider either the nature of the act itself or the character of the authority performing the act. The term, "judicial act," is somewhat ambiguous, since it is often employed as the equivalent of "discretionary act," which is not subject to review on certiorari. If the applicability of the writ of certiorari were limited to cases arising in courts of limited jurisdiction, its scope would be exceedingly narrow, since in most of these cases the aggrieved party has a right of appeal, which would shut out his remedy by certiorari. The courts have accordingly fallen back in many cases on a third construction of the term "judicial act," which is derived from the principle of the separation of powers, and they have held the writ of certiorari applicable where the act to be reviewed was performed by a body not strictly judicial, but the act nevertheless was itself of a judicial as distinguished from an executive or legislative character.¹

This rule has presented very many practical questions, since it is far from easy to determine when an act is in its nature judicial. The separation of governmental powers into legislative, executive, and judicial powers is not a statement of an actual fact, but rather the statement of the theory of what ought to be. It is not in the least surprising, therefore, that the decisions of the courts in the different states are not uniform. The Massachusetts courts hold that the laying out of streets by commissioners of high-

¹ *Commissioners vs. Kane*, 2 Jones Law (N. C.), 288.

ways is a judicial act,¹ while the courts of New Hampshire hold that such action, when performed by the selectmen of a town, is not judicial and, therefore, not reviewable on certiorari,² although when the same act is performed by a court it is judicial and reviewable on certiorari.³ In New York certiorari will not lie to review the action of the common council of a city which is not judicial in character and the New York courts, contrary to the Massachusetts courts, deny the writ of certiorari to review the action of an administrative officer, such as a highway commissioner, in laying out streets. Yet the New York courts do not consistently follow the rule that the nature of the body making the decision determines its character. Although certiorari will not ordinarily lie to review the action of an administrative officer or a legislative body, it may lie against such authorities, when their action is of a judicial character. Thus the decision of a common council that a street be laid out cannot be reviewed on certiorari, if the street is to be paid for from the proceeds of bonds or taxation, but if it is to be paid for by assessment, the decision as to the assessment may be reviewed on certiorari, because it is a judicial act.⁴

The rule is, therefore, somewhat unsatisfactory in practice. In Massachusetts the laying out of streets by administrative officers, such as highway commissioners, is considered a judicial act; in New York such action is not considered of a judicial character, and in New Hampshire the whole question is made to turn on the character of the body performing the act—whether a court or administrative officers. Of these constructions the New York construction is the narrowest. The New Jersey courts have wholly rejected the distinction based upon the judicial character, and the certiorari can be used to review official action,

¹ *Parks vs. Boston*, 8 Pick., 218.

² *Robbins vs. Bridgewater*, 6 N. H., 524.

³ *Dorchester vs. Wentworth*, 31 N. H., 451.

⁴ *People vs. Mayor*, 9 Barbour N. Y., 535.



whether of a judicial character or otherwise, to remedy wrongs inflicted upon individuals by special jurisdictions created by statute.¹ Not only is it permissible at the present day to review administrative decisions by means of the certiorari, but there is a tendency to limit it to such cases. The certiorari is used but little to-day to review the action of inferior civil and criminal judges, whose action is now quite generally made subject to a statutory appeal. In this way the writ of certiorari, which at first was employed exclusively to review judicial acts of judicial tribunals of limited jurisdiction, has come to be used principally to review administrative determinations in exactly that class of cases in which the courts at first refused to employ it.²

To understand the province of the writ of certiorari at common law it is necessary to bear in mind the fundamental distinction between appeals in equity and appeals at law. An appeal in equity brought up for review the entire matter in controversy, including both questions of law and questions of fact. Appeals at law, on the other hand, which included the writ of certiorari, brought up only questions of law. The reason for this distinction is probably entirely historical, the broader jurisdiction of the appellate courts in equity marking the decline of the participation of the people in judicial administration.³ The great difference between the writ of certiorari and the writ of error was that the writ of error was issued to tribunals having full common law jurisdiction and deciding controversies, while certiorari was issued to tribunals of limited jurisdiction,—jurisdiction granted by statute and largely administrative in character.⁴ In legal theory the decision of an authority of limited jurisdiction in excess of its jurisdiction is absolutely void and can be attacked collaterally, but it is evident that it is

¹ *State vs. New Brunswick, Cox*, N. J., 393.

² *Political Science Quarterly*, vi., 505.

³ *Powell, Appellate Proceedings*, 44.

⁴ *Goodnow, Political Science Quarterly*, vi, 515.



inconvenient to test the validity of a decision in this way.

To confine him to a collateral attack would be unjust to the individual who feels aggrieved, since he would be obliged to disobey the decision and allege its invalidity as a defense when prosecuted therefor. It would also take up too much of the time of the ordinary courts to decide collaterally the validity of each administrative determination brought up before them. We find accordingly that the courts at an early date began to treat the decisions of administrative officers like the decisions of courts, in so far that they would not presume that an officer acted unlawfully.¹ To supply the want created by refusing the collateral attack, the direct attack was allowed by means of certiorari. Without considering in detail the use of the certiorari to review administrative determinations of all kinds, we shall confine our examination of the subject to a consideration of the certiorari as a means of attacking removals made by administrative officers and particularly police removals.

The court on certiorari will, in the first place, determine the jurisdiction of the administrative authority,—i. e., whether the administrative authority had by statute the right to decide the question which came up before it for decision. This is purely a question of statutory construction. The second point which the certiorari court decides,—and in the early days of the common law these two were the only points decided on the certiorari—is the question of regularity of proceedings. The formalities laid down by the law must have been followed by the administrative officer making the removal, and even if the law does not expressly indicate the formalities to be followed, the courts have always insisted upon the doing of certain things in order that the proceedings may be considered regular and valid. Thus, if the statute accords to the accused officer the right of being represented by professional counsel, the denial of this privilege will be ground for reversal on

¹ 1 Strange, 475; 7 Term Reports, 633, Note.

certiorari. Similarly, if the trial commissioner is both accuser and judge, this will, even in the absence of any specific statutory prohibition, be considered an irregularity, which may be ground for reversal on certiorari. Some courts make the question of the regularity of the proceedings a part of the general question of jurisdiction by holding that the proceedings must be regular in order that the authority may be said to have acted within its jurisdiction. The courts have been extremely reluctant to permit any question other than questions of jurisdiction and regularity of proceedings to be brought up on certiorari.

For a long time the courts even refused to consider errors upon points of law, except where these affected the question of jurisdiction.¹ The single exception in the case of the certiorari used to review summary convictions had before justices of the peace, need not be referred to at length in this connection.² This extension of the province of the writ in England was confined to cases of petty criminal jurisdiction involving the deprivation of a person's liberty, but since in the United States the petty civil jurisdiction of the justices of the peace was largely extended, the province of the writ of certiorari was correspondingly and unconsciously extended likewise. The first extension in these cases was the assumption by the certiorari court of the right to demand that the whole record of the proceedings be sent up on the return to the writ, in order that the certiorari court might be enabled to reach its decision and to quash the decision of the lower court, if there was a mistake in the application of principles of law to the particular case.³ The same principle of permitting the certiorari court to reverse the decision of the lower authority for error of law was first applied to the case of an administrative officer as distinguished from a judicial authority in the case

¹ *King vs. Whitbread*, 2 Douglas, 549; *Birdsall vs. Phillips*, 17 Wendell, 464.

² *King vs. Smith*, 8 Term Rep., 588.

³ *Morewood vs. Hollister*, 6 N. Y., 309.

of *Baldwin vs. Calkins*,¹ which was an assessment case.

The further extension of the province of the writ to include the consideration of questions of fact was for many years denied, and case after case was decided denying the propriety of such inquiry on a certiorari brought to review the action of an administrative officer.² Not until the case of the *People ex rel Cook vs. Board of Police*,³ was there any decision holding squarely that questions of fact might be considered on a certiorari of this kind. In this case, which was the case of a certiorari to review the findings of a police board in removing a police officer, Justice Woodruff in laying down the law said that "on this appeal this court has power to examine the case upon the whole of the evidence to see whether as a matter of law there was any proof which would warrant the conviction. If the case was such at the close of the trial that it would have been erroneous to submit the question to a jury, were a like question before a jury in an ordinary action, then the error is an error of law and the conviction is illegal." This determination on a certiorari proceeding, of whether the decision of an administrative officer is absolutely unsupported by the evidence, necessitates the determination of a question of law, but in the determination of that question it becomes necessary for the court to examine in some detail the evidence adduced before the administrative officer. This practice of permitting the consideration of questions of fact on a certiorari proceeding was carried further in the State of New York than anywhere else,⁴ and was finally embodied in the *Code of Civil Procedure*,⁵ which is merely declarative of the common law on the subject.

This section provides that in addition to the three questions which could be considered on a certiorari in the

¹ 10 Wendell, 167.

² *Political Science Quarterly*, vi, 522.

³ 39 N. Y., 506.

⁴ *People ex rel Haines vs. Smith*, 45 N. Y., 772.

⁵ Section 2140.

later days of the common law,—jurisdiction, regularity of proceedings, and errors of law,—the court may decide whether there was any competent proof of all the facts necessary to be proved to authorize the making of the determination, and if there was such proof, whether there is upon all the evidence such a preponderance of proof against the existence of any of the facts that the verdict of a jury in confirmation thereof rendered in the Supreme Court in an action triable by jury would be set aside by the court as against the weight of evidence. The meaning of this section is shown to be the same as was the rule at common law before the enactment of the section by the decision of the court in two police cases, which were decided immediately after the enactment of this code section. These decisions hold that if there is any proof at all to support the decision, it will be upheld, as the court is unwilling to disturb the determination of the administrative officer as to the preponderance of evidence. These two police cases are the case of *People ex rel. Hogan vs. French* ¹ and the case of *People ex rel. McAleer vs. French*.²

These two cases, both of which are reported in the 119th volume of *New York Reports*, are closely parallel. In the case of the *People ex rel. Hogan, Appellant, vs. Stephen B. French et al., as Police Commissioners of the City of New York, Respondents*, the relator was dismissed from the police force of the city of New York upon the charge of conduct unbecoming an officer, the specification being that at a named place and date he was so much under the influence of liquor as to be unfit for duty. The evidence in the case showed that the relator had been on the police force for fifteen years, during which time he had never tasted intoxicating liquor, and he had taken the liquor on the day specified, only because he had for four days been continuously employed guarding street cars and repelling dangerous attacks upon them by strikers. On the fifth day, when

¹ 119 N. Y., 493.

² 119 N. Y., 502.

the alleged dereliction of duty occurred, he was ordered on a cold winter day to go to the car stables, without breakfast, and was compelled to ride on the front platforms of cars until the middle of the afternoon, when he became faint and ill. Upon reporting his condition to the sergeant, the latter ordered him to report ill, but the relator, considering the emergency in the city, thought it would be improper for him to do so and continued to perform his duty. Later he took one glass of brandy to relieve his illness and, not being accustomed to it, some degree of intoxication followed. On this evidence he was dismissed from the force.

In a previous case¹ the Court of Appeals had laid it down as the law of the state that where there was any evidence of the offense charged or the facts admitted of any inference of guilt, the court on certiorari will follow the conclusion of the commissioners, in view of their peculiar responsibility and very large opportunities for arriving accurately at the truth. But, though the courts will not interfere with the discretion of an administrative officer where there is any evidence tending to show a breach of discipline by the removed policeman, they will not permit an administrative officer to render a decision which is absolutely unsupported by the evidence. To that extent the certiorari court will certainly interfere. In the present case the evidence failed to show any breach of discipline or conduct unbecoming an officer and accordingly, as the facts admitted of no inference of guilt or conscious breach of discipline or violation of the rules, the case presented a question of law reviewable by the court on certiorari.

The case of the *People ex rel. Patrick McAleer, Appellant, vs. Stephen B. French et al., as Police Commissioners of New York City, Respondents*,² was also the case of a policeman who was discharged from the force for intoxication. The evidence in this case showed that on October 15th the

¹ *People ex rel. Masterson vs. French*, 110 N. Y., 494.

² 119 N. Y., 502.

relator was on duty until 5 o'clock in the afternoon, when he went home and, after moving his furniture to another house, again went on duty. During the night he came home, settled his house, and went to bed. He went on duty at 8 o'clock the next morning, and just before that hour, as he did not have any breakfast, his wife procured some brandy and insisted upon his drinking it because, as she alleged, she feared that he would become sick. After doing so he went on duty, and while he was on his post, between 12 and 1 o'clock, his wife, still fearing he would become sick, took him some more brandy, which he drank. At about half-past 1 he went to the station house, fell down on the floor, and was found there in an intoxicated condition. The court in this case held that, since there was sufficient evidence to authorize the police commissioners to find that the relator was guilty of intoxication as charged, in the sense that it was voluntary and that he was in fault and to blame for it, the appellate court would not disturb the decision rendered by the administrative authority.

The court on certiorari will, therefore, control the discretion of an administrative officer only to the extent that it will not permit the administrative authority to abuse this discretion by arriving at a determination which is absolutely unsupported by the evidence. If there is any evidence to authorize the finding of the administrative authority, the court will not interfere to determine its sufficiency. But this rule of law that the courts will not on certiorari control the discretion of subordinate administrative officers has become unsatisfactory to the individuals whose interests are affected by these discretionary administrative decisions. Under the old English system most of the really important administrative duties in the localities were discharged either directly by or under the supervision of the justices of the peace, who from the manner of their selection and from the high social position they occupied, commanded the respect of the people and offered guarantees for an impartial and wise administration. Under modern

conditions a large number of smaller and less important officers exercise important administrative powers. Hence there is felt the need of a control of the less wise and often more arbitrary action of these subordinate administrative officers. Individual rights may be violated as well by misconception of the facts as by an excess of jurisdiction or the wrongful application of the law.

Moreover, in the United States there is no tribunal to which an appeal can be taken from the decisions of administrative authorities, as to questions of expediency or discretion. This has resulted in a tendency on the part of our courts to relax the strictness of their rule and a tendency on the part of the legislature to enlarge the province of the writ of certiorari. The most important instance of such an invasion of the domain of administrative discretion by the courts is found in the case of the removal of subordinates for cause. Although in some cities police removals may still be made at the pleasure of the superior officer, statutes provide to-day in the case of most of the larger cities that police officers can be removed only for cause. The object of these statutes is to prevent the removal of police officers for political reasons or for other reasons in no way connected with the maintenance of the administrative efficiency of the department. The courts have held that where a statute provides that an officer may be removed from office for cause only, the courts have the right to control the discretion of the removing officer in deciding what is "cause."¹ The courts in arriving at this decision have not based it upon any desire to control the administrative discretion of the removing officer, but have held that what is cause is not a question of discretion, but a question of law. The practical and necessary result of the decision, however, is that the courts do exercise a control over the discretion of administrative officers and this control may and frequently does seriously interfere with the efficient administration of the discipline of the police force.

¹ People *ex rel.* Clapp *vs.* Board of Police, 72 N. Y., 415.

Having considered the history of the writ of certiorari in detail, let us summarize its history briefly with particular reference to present-day conditions in New York. The writ of certiorari originally was the writ used merely for quashing an act which was in excess of jurisdiction, either because an authority attempted to exercise a power which in law it did not possess or because it did not follow the recognized legal procedure. Under the original writ the evidence never went up to the certiorari court. Furthermore, the court at common law could not quash a determination because it had been made as the result of a mistaken application of the law. In New York the police enjoy a protected tenure, since they cannot be removed except for cause, and our courts have generally developed the idea that a removal for cause must be made as the result of a hearing. This hearing in the case of the New York police has been made so elaborate by statute that it is not merely a hearing, but a trial, at which witnesses can be sworn and at which the person under charges can enjoy the benefit of counsel. It includes, in fact, the more elaborate machinery of a judicial proceeding.

The New York police got these privileges before the writ of certiorari could be used for any purpose other than that of quashing a determination for excess of jurisdiction. Subsequently the New York courts began to develop the idea that the writ of certiorari could be used only to review a judicial act, and since the hearing accorded to the police under these various statutes was so formal, the courts regarded the certiorari as the proper remedy to review the determination reached at such a hearing. Then gradually in these police certiorari cases the New York courts began to change the law. At first they began to overturn the determination of an administrative officer, because it was absolutely unsupported by the evidence; subsequently, in assessment cases they decided that a mistake of law in the making of an assessment ought to be capable of being corrected somewhere, and so they corrected

it on certiorari, since the assessment, which is a judicial proceeding, could not be attacked collaterally. Thus from the law of assessments there crept into the law of certiorari the principle that a determination can be quashed on certiorari because of a mistaken application of law by the lower authority. For about ten years the decisions of the Court of Appeals were conflicting, wavering between the old narrow province of the writ of certiorari and the present more liberal view of the power of the court on certiorari.

Finally Section 2140 of the *Code of Civil Procedure* was adopted, which provided that the certiorari court might determine the five following questions on the hearing:

(a) Whether the body or officer had jurisdiction of the subject matter of the determination under review.

(b) Whether the authority, conferred upon the body or officer, in relation to that subject matter, has been pursued in the mode required by law, in order to authorize it or him to make the determination.

(c) Whether in making the determination any rule of law affecting the rights of the parties thereto has been violated, to the prejudice of the relator.

(d) Whether there was any competent proof of all the facts, necessary to be proved, in order to authorize the making of the determination.

(e) If there was such proof, whether there was, upon all the evidence, such a preponderance of proof against the existence of any of those facts that the verdict of a jury affirming the existence thereof, rendered in an action in the Supreme Court, triable by a jury, would be set aside by the court, as against the weight of evidence.

In this section of the Code there is no specific reference to the police cases, but the police cases had become well-recognized subjects of review on certiorari, and accordingly this section was applicable to the police cases. Yet, since the enactment of this section of the Code, whenever there has been provided in the case of other employees a hearing

which is not entirely as formal as the hearing enjoyed by the policemen and firemen before they are removed from office, the court has refused to regard the proceeding by which they are removed as judicial, and has refused to review the removal proceedings on certiorari.¹ There is no doubt that this action of the courts has been due to a feeling that the application of this broad certiorari to the police cases has been so extremely prejudicial to the discipline of the police department that its extension to other departments is not advisable.

If we are to secure that happy combination of administrative efficiency and a proper regard for the private rights of the policeman, we must, in the first place, make sure that the chief administrative officer of the police force is a good administrator and disciplinarian. With this object in view, more attention should be paid to the administrative ability and, if possible, less to the political qualifications of the men chosen for this important position. It is chiefly in the maintenance of the proper discipline that the police chief succeeds or fails to be successful in his position. The maintenance of discipline means more than merely the prompt punishment of violations of the regulations. It means in its broadest sense the fostering of that spirit among the men which will make them attentive and vigilant in the performance of their duties and willing and eager to perform any duty which they are ordered to perform or which they of their own accord think will assist their chief in maintaining a good control of the police situation.

If the chief of police is a good disciplinarian, or at least a man who combines with a moderate amount of disciplinary skill an eager desire to learn the details of his business, the next requisite for the maintenance of good discipline is an able and just trial officer. Such an officer should above all else be absolutely fair and just, and if the size of the town will permit it, he should also be a professional lawyer, —not that legal training will necessarily qualify a man for

¹ People *ex rel.* Kennedy *vs.* Brady, 166 N. Y., 44.

this position, but under modern conditions, and particularly under the broad judicial review which is allowed dismissed police officers in some states, it will be found that the best results can be secured only when the trial officer is a lawyer. With a good disciplinarian occupying the chair of the chief administrative officer and a legally trained and just man sitting as judge in the cases of delinquent policemen, we may feel reasonably sure that the tact and firmness of the administrative officer will reduce to a minimum the number of offenders brought up for trial, and the ability and fair-mindedness of the trial officer punish decisively but justly those who are brought before him.

Yet, human agencies can never be perfect, and for this reason some system of appeals should be provided, if individual freedom is not to be sacrificed arbitrarily for the sake of administrative efficiency. In devising a system of appeals, however, the administrative appeal should be preferred to the judicial appeal, because, though both protect individual rights, the administrative appeal is less likely to injure the efficiency of the administration. The right to an administrative appeal may well be accorded to every delinquent officer as a matter of right, and such an appeal can best be provided for by allowing any officer who has been sentenced to dismissal from the force to appeal from the decision of the trial officer to the full board of police, or from the decision of the trial officer to the commissioner, or from the commissioner to the mayor, or to the civil-service commission. If such appeals be found to be without merit, no injury will have been done by allowing them; and the mere fact that such an appeal lies in every case as a matter of right will cause the trial officer to be more careful of the rights of the accused officer in the conduct of his trial.

With an efficient administrative appeal, the judicial appeal can well be permitted to take care of itself. It is the function of the courts to prevent injustice from being done, and we find in administrative law as in private law

that, although the courts unconsciously increase their jurisdiction when the imperfections of the administrative system endanger the rights of individuals, they will, in like manner, gradually relinquish such an extended jurisdiction, as soon as the administrative jurisdiction becomes more nearly perfect. Such a retrenchment of the right of judicial appeal in police cases is much to be wished for. In most of the states the judicial appeal by certiorari will be lost just as soon as the trial before the trial commissioner is properly conducted in accordance with the principles of law and the legal rules relating to evidence. In New York State the peculiar extension of the writ of certiorari under Code Section 2140 will lose much of its destructive force from the point of view of the maintenance of police discipline, if the decision of the trial commissioner is supported by the affirming decision of the officer who decides the administrative appeal. Under such circumstances the court would hardly feel justified in substituting its own opinion of the facts for that of the two separate administrative authorities. The judicial review will then be confined, as it ought to be confined, to questions of law only.

SECTION III. PHYSICAL DISABILITY

Health of Policemen—Police Pensions—Service Pensions—Sources of Pension Money—Liquor Tax and Fines—Contributions—Entertainments—Compulsory Retirement—Periodical Physical Examinations—Employment for Veteran Officers.

The health of the members of the police force ought to be and generally is decidedly above the average. In the first place, owing to the physical examination which is now almost universally made a condition precedent to appointment,¹ the policemen are a picked body of men from the physical point of view. Not only will almost any serious organic or functional disturbance of a physiological character disqualify a candidate from receiving his appointment

¹ *American Physical Education Review*, March and April, 1909.

but even physical defects which to the layman at least appear to be of trifling importance, will disqualify the candidate, if they in any way interfere with his ability to perform police service of the routine kind or of the character required of him in emergencies. Thus flat feet will disqualify a candidate, because men with flat feet frequently find it extremely painful to stand or walk much, although there is ample medical testimony that other people so afflicted can stand and walk as well as if the natural arches of the feet were not broken. Similarly, rupture and varicose veins, which do not seriously interfere with the routine discharge of duty, are causes for rejection, because they might interfere in case of emergency, when the service demanded of the police is unusually severe or long-continued.

Given, therefore, a picked body of men to start with, the general health of the police force will naturally be better than that of an equal body of men who are not so carefully selected. Moreover, the routine work of the policeman, though hard from the physical point of view, is not of such a character as will injure the health of a normal man. Regular hours of service produce a healthy periodicity of function and the patrolling of the streets is not work of a kind which predisposes a man to any constitutional disease. The prevalence of rheumatism among the older members of the police force is to be attributed rather to excessive indulgence in alcoholic liquors than to routine police service, although the exposure to inclement weather, which is a necessary incident of police service, does aggravate the complaint, if the individual has any hereditary tendency in that direction. Periods of emergency service are of such infrequent occurrence that, though they are physically exhausting, they will not have any material influence upon the general health of the policemen. It is perfectly logical to conclude, therefore, that the health of the policemen, both because of their careful selection, as well as because of the comparatively easy character of the service demanded of them, is and always has been better than that

of any other like body of men. But in addition to certain vicious personal habits, in which some members of the force engage to the detriment of their health, such as excessive drinking, there must be figured in the extraordinary dangers of the profession. Every policeman stands ready at all times to risk his life in the performance of his duty and, not only are policemen frequently killed in making arrests or in effecting rescues at fires, on the river front, and in runaway accidents, but in far more cases they are injured and sometimes even crippled for life. It was such disability, resulting from the actual discharge of police duty, which, in the historical development of police administration, first led to the establishment of police pensions.¹

Police pensions are of two kinds,—service pensions and pensions for disability. The fundamental principle underlying the grant of a pension is the desire on the part of the government to increase the efficiency of the official force by removing from the mind of the officer the worry which every man experiences whose duty is dangerous to life and whose income, in case of his early death, is too small to make adequate provision for his family. There are really two purposes to be subserved by the granting of pensions,—a provision for the policeman in his old age and a provision for his family in case of his early death. Yet these two purposes are not always kept separate and distinct, although the one is properly the foundation of the service pension, and the other the foundation of the disability pension. Nobody will for a moment contest the wisdom and the propriety of providing a disability pension for a policeman, if the policeman in the performance of his police duties is injured or killed. Common decency demands that the municipality which he has served, and in whose service he has lost his life or his wage-earning capacity, should provide for those who are dependent upon him.

To cast the burden of supporting the policeman's dear ones upon charitable institutions or charitable individuals

¹ *Municipal Journal and Engineer*, xxi.

is not only gross injustice but it impairs the efficiency of the force as well. Policemen will be more likely to hesitate before undertaking a particularly hazardous duty, if no provision is made by law for the support of their dear ones in the case of their death. A policeman's life, though comparatively easy in its daily routine, is full of incidents which require a display of courage and a cool head on the part of the policeman. He is in a better position to do his duty, fully and without hesitation, if he knows that, in case he is killed in the discharge of his duty, the city which employs him will care for his family. Almost every city of any importance in the United States and abroad has instituted these disability pensions, and the number of beneficiaries is so small and the service which they have rendered to their community is so large that not even the most economical administration has ever thought of reducing them or of abolishing them.

Starting from the disability pension, not a few cities have extended the police pension system to include service pensions as well, and this extension is not always fully justifiable. The fundamental principle of the service pension is that most men, when they reach a certain age, become physically unable to perform the duties of their office or profession and that the employer should, therefore, make some provision for their support in their old age. This principle is not universally accepted. In its favor there has been urged the well-known fact that many men become incapacitated for active work at a comparatively early age, and if no provision is made by the employer for their support when they lose their vigor, they may become charges upon the state. This argument seems to be looked upon with much favor in Europe and particularly in Germany. Those who adopt it seem to admit either that the salaries paid are too small to permit a man to save a competence for his old age or that most men are unwilling to save. Neither of these two admissions is justified by American conditions. The vast majority of the American people are thrifty and

will save a competence for their old age whatever may be their salary, and on the whole it is unreasonable to state that the salaries paid are inadequate. The salaries paid policemen in the United States are by no means inadequate for the service performed, and this is clearly evidenced by the fact that the number of applicants for appointment to the police force is in every city far in excess of the number required. Considering the small amount of work required of the policemen during ordinary times, the small amount of education required of applicants, and the social prestige attaching to the policeman, his position is popularly considered one of the easiest positions in life.

Furthermore, even if the salary were inadequate, it would be entirely wrong to say that policemen cannot save a competence for their old age. Whether a man will save money or not is not entirely dependent upon the amount he earns, but upon his temperament and his inclination. It is possible for people of thrifty habits to save more even though their salary is a mere pittance than others save whose salary is much larger, and anything which deadens the stimulus to thrift and independence should be discouraged. There would seem to be hardly a single valid argument in favor of the service pension; for, if the old policeman is actually unable to perform the duties of his office, he can retire on a disability pension. It is quite improper to retire a policeman who is enjoying the best health and vigor, simply because he has served twenty or twenty-five years on the police force, and to compel the city to pay him an annuity for thirty or more years of his life. The payment of such pensions is, in fact, the payment of a gratuity to an individual, even though it may not be a gratuity in legal theory. The very best proof that such pensions are not needed and improper is the fact that many policemen drawing such service pensions immediately become private detectives, watchmen, or special officers, and draw another salary equal in amount to or greater than their pensions.

The legality of the payment of pensions to civil employees, such as policemen, has frequently been considered by our courts. The courts seem to be almost unanimous in holding that a pension, whether of a civil or of a military character, never confers a vested right and that like a public office and its attendant salary, it can be destroyed or reduced by the legislature at any time.¹ Most of our state constitutions contain a provision forbidding the legislature from granting gratuities to any individual, and under such a constitutional provision the courts have held that pensions cannot be granted to those who are no longer connected with the official service of the state. Thus pensions cannot be granted to retired public school teachers, since they are not in the official service of the state at the time of the grant of the pension.² This constitutional provision, forbidding the grant of gratuities, applies, however, only to gratuities granted from the public funds, and if the funds from which the pensions are paid are not strictly public funds raised by taxation, the pension will be upheld. Money collected from foreign insurance companies as a license fee to entitle them to do business within the state, is not treated as being public funds, and pensions from it may, therefore, be paid to veteran volunteer firemen.³ At the present day the police pension funds generally obtain their income principally from liquor taxes, policemen's fines, private contributions, and entertainments, and it will be necessary to consider each of these sources separately.

It is the theory of our American legislation that the liquor tax is imposed not for the sake of securing revenue, but rather for the purpose of discouraging the sale of intoxicating liquor. In carrying out this view of our liquor legislation, a very large proportion of the money raised by this class of taxation never reaches the treasury of the

¹ 107 U. S., 64; 71 N. Y. App. Div., 584; 173 N. Y., 103.

² 171 N. Y., 263; 144 Mo., 283.

³ 93 N. Y., 313.

state, but is divided and devoted to various purposes which partake, to a certain extent, of the nature of charitable uses. Some of the money is devoted to the encouragement of good roads, some to the partial support of private organizations which assist in the administration of the criminal law, such as the Society for the Prevention of Cruelty to Children and the County Medical Society, some is appropriated to pension funds of the policemen, the firemen, and the school teachers, and part of the remainder is given by the state as a gift to the locality in which it is collected. No valid objection can be made to this source of revenue for the police pension fund. That portion of the police pension fund which is derived from the fines imposed upon delinquent members of the police force for violations of the rules and regulations is also properly derived and devoted to a proper purpose. A fine or a deduction from an official salary is in many cases the most efficient agency for the prevention and suppression of official misconduct, and if the money received from such fines is devoted to a semi-charitable purpose such as the police pension fund, it will be impossible for the less efficient and more frequently fined members of the force to complain that heavy fines are imposed to lessen the expenses of the department.

The third and fourth sources of revenue are not so entirely free from objection. Contributions to any public officials are always fraught with danger and when such contributions are made to police officers, this danger is greatly increased. If we could be certain that such contributions were absolutely voluntary on the part of the contributors, there might not be such great danger in permitting them, but it is almost impossible to restrict such contributions to those which are absolutely voluntary. If a police officer renders an exceedingly useful service to a private citizen in the discharge of his duty, it would seem that no extra reward ought to be given him by the citizen who has been benefited by such an act. The courts will

refuse to permit the police officer to recover in any action which he may bring, on the ground that the citizen promised to give him a reward for the performance of the duty, since the policeman has given no consideration for the citizen's promise, being himself already bound to perform the duty by reason of his oath of office. The legal rule in this case would seem to be in strict accord with the ethical principles involved.

Where, on the other hand, the act is one which the policeman is not obliged to perform by the regulations of the department, the reward, if any be permitted to be paid, should go directly to the officer and not to the police pension fund. It is little satisfaction to the brave police officer who has endangered his life and been severely injured in performing for a man some kindness which did not lie within the line of his duty that the person he has befriended has given money to the police pension fund, of which he may never receive a share. Yet in many cities all such private rewards must either be paid directly into the police pension fund or the officer to whom they are paid must surrender a certain percentage of the reward to the pension fund. It is extremely doubtful whether such regulations serve any useful purpose other than that of increasing the revenue of the police pension fund. As agencies in maintaining the discipline of the department by preventing policemen from receiving rewards under improper circumstances, their value, it would seem, is slight; for though men will not be likely to pay rewards for improper purposes, when such rewards go into the police pension fund, yet they may pay them if only a percentage is paid over to the police pension fund. Moreover, the administrative examination of the circumstances attending the act for which a private reward is to be paid is in most cities purely routine and perfunctory and no check to the payment of improper rewards.

The best results would probably be obtained by permitting policemen to receive rewards only under such

circumstances as would entitle them to sue at law for additional compensation offered by a private citizen. To follow such a rule might be somewhat hard on the police officers as the legal rule in such cases is strict, but the rule is none too harsh for the proper maintenance of police discipline. Policemen are liberally paid for their services by the municipality. Unless, therefore, the services which they render are entirely outside of their line of duty, there is no good reason why they should be permitted to receive any reward from private individuals, whether such reward be paid voluntarily or under actual or moral compulsion. If the department permits the payment of such rewards, there is always great danger that they will be paid, not for the performance of efficient police service but for a failure to perform a duty, which accrues to the benefit of an individual. On the other hand, if all contributions of this character must be made to the police pension fund, this particular form of bribery may be abolished, and yet the citizens may feel themselves morally obliged to contribute to the police pension fund whenever the police in the regular discharge of their duties assist or befriend them. It is believed that the absolute prohibition of all contributions from private citizens to the police department and the members thereof would best subserve the interests of an efficient and fearless discharge of the police function.

The fourth source of revenue of the police pension funds is the most dangerous of all. If the policemen are permitted to hold public entertainments for the benefit of their police pension fund, it is almost impossible effectively to prevent them from selling tickets to the persons on their posts. Ticket-selling generally means canvassing by policemen for the purpose of selling tickets. The offer of a ticket by a policeman or the request made by a policeman that a person on his beat purchase a ticket for a police pension fund entertainment carries with it, in the minds of the majority of the citizens, a threat that the person to whom the ticket is offered will suffer if he refuses to purchase it. The sale

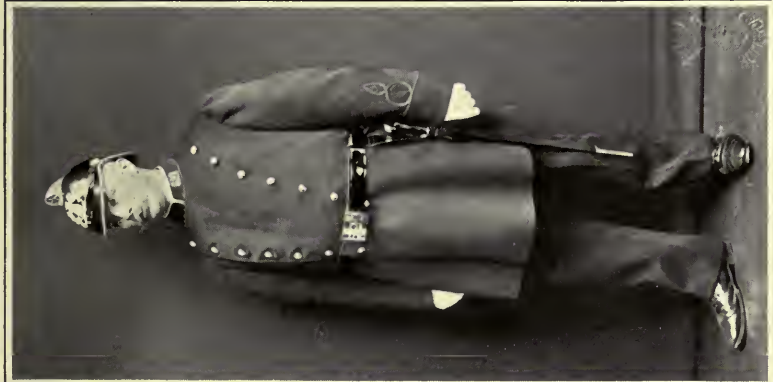
of tickets for the police pension fund in such cases becomes practically a system of blackmail, in which not the individual policeman but the policemen collectively share. This form of blackmail can be prevented only by forbidding policemen absolutely from selling anything to the people with whom they come into contact officially, and in the larger cities regulations to this effect are in force and are strictly enforced.¹ It is even doubtful whether it is wise to suspend these regulations for the purpose of permitting policemen to sell tickets for a charity, such as a theatrical performance, the proceeds of which are to be given to the sufferers from a national calamity. Whether you try to confine the policemen to selling tickets only to individuals who ask for tickets or not, the fact remains that the offer of a ticket by a policeman is in the minds of most of the citizens practically coupled with a threat that they must buy the ticket or take the consequences.

The grant of old age pensions to veteran police officers is only one of three possible ways of dealing with the question of superannuation in the police department. The two other methods of dealing with the problem are both less liberal from the humanitarian point of view and more objectionable from the administrative point of view. When police officers become so old that they lose their usefulness as police officers they may be given lighter duties to perform or they may be compelled to retire. The police business is pre-eminently a field of activity for the young man. It requires both the alertness of mind and the ambition which is characteristic of youth and which leaves men as they grow older. Granting this as a premise, the treatment of the older members of the force becomes quite a serious problem from the point of view of administrative efficiency. The compulsory retirement of veteran police officers for physical disability is open to many serious objections. In the first place, superior officers are unwilling to retire a

¹ *Regulations, New York Police Department*, Edition of 1905, Rule 33e.



Spanish Policeman



Dutch Policeman
FOREIGN POLICE OFFICERS



Swedish Policeman

faithful policeman without adequate compensation, merely because a younger man can perform his duties more efficiently. Such a procedure, though possibly benefiting the efficiency of the department, would be cruel and heartless. Even if the head of department ignores the dictates of humanity and retires a policeman merely because he has grown old in the service, other and more serious questions present themselves.

It is not always possible to determine the physical efficiency of the veteran police officer through the medium of a physical and medical examination. The examination of the heart is perhaps the most important single observation made in the physical examination. Yet the heart of an old man may show signs of weakness and even signs of valvular insufficiency clearly indicated by murmurs, which would be good ground for rejecting a young applicant for appointment but which could not be relied upon to indicate physical inability to perform police duty. In other words, as a man grows older, his physical powers decline, but it is difficult to lay down with scientific precision the point at which he becomes unable to perform efficient service. This depends largely upon the individual's temperament. Some men are capable of performing hard work, in spite of physical defects, at an advanced age, while other men, though younger and without physical defects, seem to be either unwilling or unable to do as good work. And where a matter is not capable of exact definition, it is extremely dangerous to permit it to be employed as a means of forcing policemen to retire, since under such circumstances political influence and personal prejudice may easily be employed to rid the department of men who are efficient but unpopular.

Though it seems to be inadvisable to subject policemen to a physical examination, when they reach an advanced age, with a view to their compulsory retirement, it is highly desirable both for their own protection as well as for the protection of the public and the maintenance of the administrative efficiency of the force that every member of the

force be subjected at regular intervals to a physical examination. A peculiar sense of false modesty prevents many individuals from enjoying the undoubted benefit of a periodical physical examination. Most serious diseases begin slowly and are easily curable in the incipient stages. If every individual would have his family physician subject him to a careful physical examination at stated intervals of six or twelve months or as frequently as every educated man has his teeth examined by a dentist, these diseases could be discovered in their incipency and their progress either completely checked or greatly retarded. When, on the other hand, an individual never enjoys the benefit of a physical examination by a competent medical examiner the diseased conditions existing in his body go from bad to worse unnoticed, until some acute stage is reached, when the pain and discomfort compel the sufferer to consult a medical practitioner.

In private life the value of the periodical physical examination can only be brought to the attention of the people by education and by overcoming that false modesty which shrinks from nakedness, even when such nakedness is for a very useful purpose. In a uniformed force, which is subject to a semi-military discipline, the members can be compelled to undergo a physical examination, and thus be obliged to enjoy the benefits accruing therefrom. In addition to the purely private advantages accruing to the policemen in being warned of impending dangers to their health, such as the approach of pulmonary tuberculosis, valvular disease of the heart, kidney trouble, etc., it is difficult to exaggerate its importance to the general efficiency of the force. If the policemen are examined regularly each year, as in some Massachusetts towns, it will be easy to discharge those men whose separation from the service seems necessary either in the interest of the administrative efficiency of the force or in the interest of humanity. These two points of view, so generally opposed to each other in problems of admin-

istration, are closely connected, when such problems affect the health of the uniformed force. To compel a policeman who is afflicted with certain forms of kidney trouble to stand and walk continuously eight hours a day is cruel, while the service performed by such a crippled police officer is of very slight value to the department. The periodical physical examination will not only bring to light such cases of individual illness but it will also prevent the department from being crippled by a large number of superannuated men. These will be gradually weeded out as their fitness for active service is impaired by the approach of diseases peculiar to old age, and no such hardship will be imposed upon them as would be suffered by them, if they were suddenly discharged as old men unable to learn a new trade.

It may perhaps be urged that it is unkind to discharge any man for physical weakness, particularly when such weakness is caused by old age. It is true that a man needs the income which he secures from his official salary even more when he is sick than when he is well, and few private employers discharge their employees when they become sick or old. But in this connection it must be remembered that the police business is one which, more than any other, requires young, active, and energetic men, and a man whose physical efficiency is impaired is almost a useless member of the police force. It is not possible to run a police department as a charitable organization is managed without impairing its efficiency. If the administrative head of the force must choose between maintaining the efficiency of the force and doing a slight injustice to the men, the efficiency of the force must take precedence of the happiness of the men, who are the city's servants. It is believed, however, that employment can be found within the police department for most of the men who would be discharged from active service by reason of defects discovered by periodical physical examinations.

Though the efficiency of the uniformed force may require

that those men be retired from the force who are found by periodical physical examinations to be physically unfitted to perform the arduous duties of the policeman's position, this does not necessarily mean that they should be compelled to sever their connection with the department. In all problems of administration the two factors of efficiency and humanity must be borne constantly in mind. Too much attention paid to humanity pampers the force and makes it inefficient, while too much attention paid to efficiency makes the life of the public servant slavery and the rule of the superior the rule of a tyrant. The police officer who is by reason of physical disability unable to perform the regular duties of his position should be assigned to those positions in the department which require the services of an experienced officer without requiring any great exertion. In other words, the "soft snaps," as they are popularly called, should be reserved for these veteran policemen and not given to young, able-bodied policemen who have political or personal influence. All of the assignments to special duty which we have condemned can be very properly given to veteran police officers. Police duty in the parks, in the various public offices of the municipality, at police headquarters, etc., can be performed as well by old men as by younger men, and the experience of the older men will prove exceedingly useful. The employment of veteran policemen for the performance of these duties would solve two important problems of police administration: it would prevent the use of such positions as comfortable berths for political favorites, and it would enable the head of the force to weed out the older and less efficient men from the department without doing injustice in any individual case.

The physical examinations, if required at periodical intervals, would also expose to view incipient cases of tuberculosis and cases of venereal diseases. Much has been written in recent years of the advantages of the outdoor life for those suffering from tuberculosis and this has been

interpreted by some to be equivalent to the assertion that the positions of the letter-carrier and the policeman are ideal occupations for sufferers from tuberculosis, because these officers spend the greater part of their time in the open air. Nothing can be further from the actual fact. Without discussing the value of the letter-carrier's position from the medical standpoint for men afflicted with tuberculosis, it can be asserted without hesitation that the position of the policeman cannot from any point of view be regarded as beneficial for such sufferers. Even if we disregard the danger of infecting other members of the force and the public with this disease, when consumptive policemen are permitted to perform police duty, the nature of the disease, which is essentially a wasting disease, is such that no man who is afflicted with it can stand the hard routine life of the policeman. Nor need we consider at any length the advantages from a purely administrative point of view which would accrue from discovering and dismissing from the force those who are afflicted with venereal disease. Just as venereal disease at present disqualifies an applicant for appointment, so continued affliction with venereal disease ought to be cause for removal from the force.

At present, however, periodical physical examinations are not in use in most American cities, though their value is well-recognized from a theoretical point of view. Two circumstances seem to prevent their more general adoption. In the first place, Americans in every station of life seem reluctant to consent to undergo a physical examination. Secondly, and this seems to be a corollary of the first cause, the members of the police force consider it an undue interference with their personal liberty to be compelled to undergo a medical and physical examination at regular intervals. These considerations are of course purely sentimental, and a police commissioner who is himself thoroughly convinced of the value of periodical physical examinations can easily overcome both of them. Of the seventy-five largest cities of the United States only a few

TABLE 7. POLICE REMOVALS IN UNITED STATES

CITIES.	REMOVING AUTHORITY	APPEAL TO COURTS	No Appeal to Court.	Appeal to Court.	Not Decided by Court.	Not Specified.
			Board of Aldermen.	Not Specified.	Trial Court of Superior Officers, with Approval of Director of Public Safety.	Police Trial Court, with Approval of Board of Aldermen, Director of Public Safety, and Mayor.
			Chief, with Appeal to Civil Service Board.	Chief, with Approval of Committee on Police, Executive Board, and Civil Service Board.	Chief, on Order from Mayor.	Chief, with Approval of Legislative Council.
			Chief.	Chief, with Appeal to Board of Police.	Chief, with Approval of Mayor.	Civil Service Commission.
1. Albany, N. Y.	Police Committee of City Council.					
2. Baltimore, Md.	Mayor, with Appeal to Board of Public Safety.					
3. Binghamton, N. Y.	Mayor, with Approval of Board of Aldermen.					
4. Bridgeport, Conn.	Mayor.					
5. Buffalo, N. Y.	Police Board, Appeal to Civil Service Commission.					
6. Cambridge, Mass.	Commissioner or Board of Public Safety, or Police.					
7. Camden, N. J.						
8. Charleston, S. C.						
9. Chattanooga, Tenn.						
10. Chicago, Ill.						
11. Cincinnati, O.						
12. Cleveland, O.						
13. Cohoes, N. Y.						
14. Columbus, O.						
15. Covington, Ky.						
16. Dallas, Tex.						
17. Davenport, Ia.						
18. Dayton, O.						
19. Des Moines, Ia.						
20. Detroit, Mich.						
21. Denver, Col.						
22. Duluth, Minn.						
23. Elizabeth, N. J.						
24. Elmira, N. Y.						
25. Erie, Pa.						
26. Fall River, Mass.						
27. Fort Wayne, Ind.						
28. Grand Rapids, Mich.						
29. Hartford, Conn.						
30. Harrisburg, Pa.						
31. Haverhill, Mass.						

[illegible]

subject their policemen to physical examinations at regular intervals, and a few of the remainder conduct physical examinations in special cases where there is special need for ascertaining the fitness of a man for retention on the force.¹

¹ For statistics regarding periodical physical examinations in American police forces, *cf.* Table vi, Chapter v, Section ii, *ante*; for statistics regarding police pensions in American police forces, *cf.* Table printed in Chapter ix, Section ii, *post*.

CHAPTER VII

EQUIPMENT AND RECORDS

"Dress has a moral effect upon the conduct of mankind."

SECTION I.—EQUIPMENT

The Uniform—Utility and Display—Purchase and Care—Officers with Special Duties—Weapons—The Baton—Its Proper Use—The Revolver—The Whistle—Summoning Police Assistance—Signal System—Miscellaneous Equipment.

THE police uniform is required in order that the policeman may be clearly differentiated from the rest of the community. Such differentiation is necessary not only for his own protection but also that his commands may be more readily obeyed and his authority respected. In the historical development of the police forces of the world the police uniform was introduced at a comparatively recent period. In England, in France, and in Germany the forces discharging police functions were at first clad in citizens' clothes. Indeed both the public and the policemen strongly protested against the introduction of police uniforms. The protest of the public, particularly in England, was based upon the fear that the uniformed policeman might become a military tyrant, who would infringe upon their personal liberty, while the protest of the policemen themselves was actuated by a similar fear that the uniform would deprive them of their own personal liberty and make them the slaves, instead of the employees, of the city.

At the present day the attitude of the people towards the uniform is more friendly. Not only are policemen, except when engaged in secret or detective work, uniformed

in every civilized country of the world, but the uniform has also been introduced into other departments of our government and into private life. The mysterious European dread of the uniform is gradually disappearing, and in its place we are beginning to respect the uniform. Street car employees and the large forces of employees found in our great industrial establishments are being uniformed. The employees enjoy the distinction of being uniformed and the public seems to approve of the tendency. As far as the police uniform is concerned, the subject may be conveniently considered under several heads.

The uniform subserves two purposes,—utility and display. The American uniforms are chosen principally from the utilitarian point of view. They consist simply of a coat, trousers, and a hat. The color is generally dark blue, which presents a neat military appearance and does not become soiled easily. Gilt buttons add to the military appearance of the men. The coat and trousers are made of material of two different weights, the heavier being worn in winter and the lighter in summer. The headgear is also made in two styles, one of which being lighter in color is worn in summer. In European countries the element of display is given more prominence, although even there the uniform is chosen primarily from a utilitarian point of view. The red color is seen more frequently in the uniform and more gold lace and other similar military trimmings are added to the coat. It is, however, the headgear which principally differentiates the American police uniform from the European.

The American police almost universally wear a helmet. This is a simple, strong hat so made that it protects the wearer both from rain and from missiles. Falling debris at fires and stones thrown by members of a mob are deflected by the helmet in such a way as not to injure the officer's skull, while rain-water is thrown by the broad brim far from the officer's person instead of trickling down his neck as it would in the case of an ordinary hat. The English police

also wear a helmet quite extensively. On the continent of Europe the headgear of the police officer is either a military cap or a large ornamental hat with plumes and feathers. The French *gendarmes* with their enormous black plumes furnish the best example of the ostentatious display of some of these foreign police uniforms. In them the element of utility is almost entirely lacking.

Although the military cap is pretty from an esthetic point of view, it is not very useful from a practical point of view. In the United States those superior officers whose duties are performed principally in the station-house or on parade wear a military cap, while the helmet is worn by the officers engaged in active outdoor police service. This is the logical distinction between the two forms of headgear,—the cap is pretty; the helmet is useful. To send a policeman out on the street for active service with a cap, when before his tour of duty is ended he may be called upon to face a stone-throwing mob or to make rescues in a burning building with the debris falling on all sides, is to sacrifice the safety of the men for the sake of their appearance. Under American police conditions it would be endangering the safety of the men without any reasonable justification.

On a certain day designated by the commissioner or chief, about four or six weeks before the beginning of the winter and the summer season, respectively, all the police officers are required to bring their uniforms to the station-house for inspection by the captain. After this inspection the captain orders those whose uniforms seem to be worn to provide themselves with new uniforms. To secure uniformity of material and workmanship in the police uniforms, the quality of the cloth and the workmanship must be approved by the commissioner before the policemen are permitted to purchase any article of their uniforms. This approval is generally given in the following manner. The police commissioner invites proposals from manufacturers of cloth. The lowest tender of suitable cloth is accepted by the commissioner and all dealers who are

desirous of manufacturing police uniforms are invited to submit samples of uniforms manufactured from this approved cloth.

In approving the samples of the tailors one of two courses is adopted by the head of the police department. Generally the police commissioner approves only the sample of a single manufacturer. This certainly has the advantage of securing absolute uniformity in the uniforms. On the other hand, it may lead to favoritism, which may or may not be the result of political considerations. Even if no favoritism whatever is shown to the successful tailor, it is somewhat of a hardship to compel all the members of the force to pay for the very best and most costly uniform and equipment, when by approving the goods of two or three competing tailors whose work has the same outward appearance the head of the department might leave it to the discretion of each individual policeman whether he will purchase an expensive uniform coat, which will probably last two years, or a cheaper uniform, which will need replacing at the end of a year.

In the United States post-office department the goods of every tailor and hatter which comply with the specifications are approved, whatever may be the cost of the finished product. Since each individual officer of the department is obliged at all times to present himself for duty in a clean uniform, which is in good condition, it is perfectly proper to permit such officer to decide for himself whether he wishes to buy a more expensive or a cheaper uniform. Furthermore, the approval of the goods of all the tailors and hatters whose samples comply with the specifications and are well made,—a practice which is followed in only a few police departments in the United States,—makes it not only impossible that any favoritism be shown to any single bidder, but also renders it absurd to allege that favoritism has been shown. It is almost as important to prevent an allegation of favoritism as to prevent an actual showing of favoritism in a department which is so frequently the

subject of complaint as is the police department. After the uniform has been purchased and inspected it becomes the duty of the officer to keep it in a clean condition at all times. At the beginning of each tour of duty the captain or sergeant is required to inspect the uniforms when he turns the platoons out upon the street and charges must be preferred against any officer whose uniform is not kept in good condition.

Officers who are detailed for the performance of special duties frequently require special uniforms, either to enable them to perform their special duties more efficiently or to distinguish them from the members of the force who perform regular police duty. Because of considerations of utility the bicycle policeman is required to wear trousers reaching to the knee with long stockings in summer and leggins in winter. Similarly the mounted policemen are required to purchase and wear riding breeches and spurs. Purely administrative considerations, on the other hand, demand that each special squad wear some distinctive mark. The health squad in many of the larger cities wears the Geneva red cross on a green field on their sleeve and in New York the traffic squad wears an emblem consisting of a brown horse's head and a yellow wheel on their sleeve. Officers detailed for detective service and criminal investigation work are permitted to dispense with uniforms.

The uniform of the special policeman presents another problem of considerable importance. The private employer of the special policeman who is not a member of the regular police force will request that the uniform be of the same color and as much as possible like that of the regular policeman, alleging that only in this way will the authority of the special policeman be respected, while administrative expediency requires that it be entirely distinctive from that worn by the regular police officers, so that the acts of the special policeman may not be credited to the members of the regular police force. In arriving at a decision the wise commissioner will not permit the demands of the private

employer to outweigh the considerations of administrative efficiency. The private special policemen are frequently men of less ability and intelligence than the regular policemen, and are always men who are not subjected to the same rigorous discipline. The result is that having the interest of their employers at heart almost exclusively, they will disregard the rights of the public in a manner which is likely to arouse considerable public resentment, and unless their uniform can be easily differentiated from that of the regular policemen, the regular force may be credited with acts for which they are in no way responsible.

For offensive and defensive purposes it is necessary that the police be armed while on duty. Major Sylvester, the able dean of the police chiefs of the United States, has called attention to the fact¹ that although the danger which is ever present in the policeman's calling is not always brought conspicuously to the attention of the public, yet statistics show that the number of policemen who are killed or seriously injured in the performance of their official duties is very large. A considerable number of these accidents undoubtedly occur while policemen risk their lives to save the lives of others, and for this risking of their lives the policemen ought not to be praised hysterically by the sensational newspapers. Policemen can serve the public much better as well as much longer, if they use a cool discretion than if they rashly risk their lives in cases of emergency.

The fireman who, to save one-quarter or one-sixth of a minute, drives his team out of the warm apparatus house into the icy blast of a snow-storm without waiting to put on his coat has his counterpart in the policeman who jumps into the river with all his clothes and even his shoes on in an attempt to rescue a drowning man. Such thoughtless disregard of self may appear praiseworthy to some, but each of these public servants could perform his duties much more efficiently, if he would protect his own interests as well as those of the city and of his prospective beneficiaries,

¹ *Municipal Journal and Engineer*, xxi.

by observing common sense and ordinary caution in his actions. A well-clad fireman can work more energetically at a fire than one who has been chilled by exposure. Similarly the policeman who throws a rope to a man struggling in the water can often effect a rescue better than if he tries to save the man while he is himself struggling in the water and has difficulty in supporting himself because of the weight of his wet clothes.

In addition to the risks which the policeman voluntarily incurs in his laudable efforts to save or protect the lives of citizens, his life is also often placed in jeopardy by reason of encounters with criminals. If in any city this danger is small, it is a positive proof of the efficiency of the police administration in preserving order and in overawing the lawless elements of the population. To overcome the resistance of the vicious criminal class and to protect themselves the policemen require courage, tact, official support, and weapons. Here again, though courage is an essential qualification of the efficient police officer and want of it fatal to his efficiency, yet if an officer is tactful, he can accomplish better results with less friction and danger than if he be possessed merely of the bull-dog type of courage. The knowledge and ability to handle criminals skillfully will often render unnecessary a resort to violence, while a knowledge on the part of the criminal that resistance to the officer will be fruitless, because of the support which the police department will give him, will often deter the criminal from resorting to violent means. Although these circumstances may lessen the number of occasions on which the policeman will be called upon to use his weapons, the policeman must always be armed when on duty.

The baton is the weapon upon which the American policeman places the greatest reliance. It is issued to policemen in three forms. A small pocket club, manufactured generally of coco-bolo wood, is the one which is most frequently used. Policemen carry this in the right hip pocket of their trousers when on duty. It is small in

size, but because of the strong character of the wood, it is extremely useful in overcoming the resistance of a criminal who is to be arrested. When used in this way, the thong of the baton or billy, as it is generally called, is tied securely around the officer's wrist, and the blows with the club are rained upon the head of the criminal. Such a beating is extremely effective in overcoming resistance, and is not likely to leave any permanent ill-effects in the case of a normal individual. The coco-bolo billy is also very useful in making an improvised tourniquet to save the life of a man who is bleeding from a ruptured artery. For this purpose the thong is used as a binder and the short club to tighten the binding.

The second club used by the American policeman is the long baton or night stick, which is generally manufactured of hickory or locust. This is a much more effective weapon against a mob but more unwieldy and, therefore, less useful in a close hand to hand conflict with a single individual. When used in a riot, the thong is wound around the officer's wrist and the club is swung with much force, the blows, however, being aimed rather at the legs of the offenders than at their heads. When blows with this heavier club are rained upon the head of an individual, very serious effects may result. Concussion of the brain and even fractures of the skull are sometimes caused in this way and a careful policeman will, therefore, refrain from using the night stick against the head of a prisoner except in a case of self-defense. The third club, which is issued to officers in some cities, is the baton made of light rosewood, which is used for ornamental purposes on the parade ground.

The proper use of the baton is a subject which cannot be taught in a perfectly satisfactory manner by the rules and regulations of the department, and only experience can teach the officer when to use it and when to refrain from using it. The rules require that officers must not toy or play with their batons, yet we all know how dear it is to the heart of the young recruit to the police force to swing his

baton idly to the right and to the left as he proudly walks up the street. Official reprimands and even the danger of an occasional fine will not deter him from doing this. Furthermore, if he drops his baton while swinging it, this will only serve to make him all the more anxious to learn how to twirl it without letting it fall. One rule, however, which is laid down in the regulations ought to be carefully enforced. This is the rule that the baton should be used only to overcome the actual physical resistance of a prisoner or to protect the life of the officer.

Clubbing by a police officer under any other circumstances is a technical assault and entirely unjustifiable. To the student of disciplinary and administrative problems there are probably few sights which appeal to him more strongly than the sight of a policeman leading a prisoner to the station-house and receiving without comment and without resistance his mutterings and his verbal threats. As long as the prisoner does not attempt to escape or to do violence to his captor, the policeman has absolutely no legal right to club him. The policeman who loses his temper, because of the vilifications and the verbal threats of his prisoner, is unfit to be a member of the uniformed force. The professional members of the force should be quite as ready as the non-professional head of department to rid the force of members who cannot control their tempers under trying circumstances. The dignity of the law is upheld better by an officer who considers it beneath his official dignity to notice the remarks of a person whom he is arresting than by one who attempts by brutal clubbing to obtain revenge for personal insults.

In addition to the police baton police officers in the United States are generally furnished with a revolver, although this weapon is, because of its dangerous character, to be used only in cases of extreme emergency. The revolver is carried ordinarily in the left hip pocket of the trousers in a specially constructed pocket and is to be drawn only for inspection or when the life of the policeman is in danger.

Police officers are by the regulations prohibited from using their revolvers under any circumstances, except to protect their own lives, to overtake an escaping felon, when the felony has been committed in their presence and they are certain of the identity of the felon, and to kill vicious animals which cannot be impounded and which have no great pecuniary value. When the revolver is used by the policeman to protect his own life, no possible objection to its use can be raised. But the policeman has no greater right to use his revolver under such circumstances than a private citizen, and if he fails to make out a case of self-defense, he is amenable to the law for the use of the revolver just as is a private citizen, with the exception that the possession of the revolver by the policeman is lawful while in the case of a private citizen it may not be lawful.

The young police officer and the inexperienced police officer or the police officer who is rash must guard against exaggerating the danger in which his person is placed by emergencies. It frequently happens that a hot-tempered individual may lose his temper and consider himself in great bodily danger, when in fact the danger is not sufficiently great to justify the use of the revolver. Such individuals ought to be summarily dealt with by the chief administrative officer. Their fault is temperamental rather than voluntary. Although, therefore, it may seem a hardship to dismiss such officers from the force, yet their presence on the force is clearly a menace to the public, and private considerations must give way before considerations of public policy and expediency. The rash use of the revolver either in the defense of the policeman's person, when his person is not in serious danger, or in attempting to capture a fleeing offender, when such an offender is merely a misdemeanor or his identity or his guilt as a felon is not clearly established, cannot be too strongly condemned by the supervising police authorities. Misdemeanants who attempt to escape cannot be fired upon lawfully, because their offense is in the eyes of the law too trivial to justify the

risks taken in firing upon a human being. Even in the case of fleeing felons it is merely a survival of the old custom which justified a police officer in shooting them while resisting arrest by fleeing. Such action by the police officer is quite arbitrary, as the felon has not had any trial, but since in the early days of the common law the felon was an outlaw whom anyone was at liberty to kill, the principle has survived in the law of our day that the police officer can shoot at a felon, if he resists by fleeing the officer's attempts to take him into custody.

The killing of vicious beasts by police officers presents no special problems for our consideration. Mad dogs are the beasts that are most frequently killed in this manner. Even in the case of mad dogs, however, police officers ought to exercise a cool and careful judgment before using their revolvers. Many of the dogs which are supposed to be mad are only tired or worried and could with a little care be restored to a normal condition. To shoot such dogs is stupid, even if not contrary to the regulations of the department. Even in the case of dogs which are mad it would be far preferable if they could be taken into custody for medical observation, particularly if they have already bitten a human being, since by such observation of the living animal physicians can determine whether there is any danger of the transmission of hydrophobia from the beast to the person bitten. This may not always be practicable but the matter should at least be called to the attention of police officers. Animals which have large pecuniary value can ordinarily not be shot by police officers without the consent of the owner. Injured horses, for example, cannot be shot, however great their suffering may be, until the consent of the owner has been obtained, since any other course might involve a taking of property without due process of law. In the case of stray cats and dogs the legal maxim *de minimis non curat lex* would seem to apply. The ability of police officers to shoot accurately should be carefully trained at revolver ranges and tested

by revolver matches. Although it is true that policemen need not be sharpshooters, yet an ability to hit the mark is necessary in the case of the policeman, not so much to insure their hitting the mark as to prevent injury to bystanders by their failure to hit the mark.

An article which is supplied to police officers quite generally in this country and abroad and which partakes both of the nature of a weapon and of an equipment is the police whistle, which is to be used by the officer in calling for assistance. In a well-policed city a policeman can use his police whistle with almost as good effect as a weapon, since, when he uses it, the criminal who is resisting or attacking him knows that the officer will be quickly reinforced and all resistance practically futile. On the whole, however, the value of the whistle becomes gradually less as the telephone comes into more common use. In the days before the telephone police intelligence of all kinds had to be transmitted from one policeman to another until it reached the policeman for whom it was intended, and in those days the police whistle was extremely useful in calling to the assistance of one policeman, who was sorely pressed, the aid of his brother officers. To-day police information is transmitted by telephone or by police signal system and assistance can be quickly called in most cases in the same manner.

The value of the police whistle to private citizens has decreased in the same manner as its value to the policemen themselves, with the advancement of modern science. The advisability of supplying citizens with police whistles to be used by them in calling police assistance in cases of emergency is a mooted question in police administration. If a private citizen has a police whistle, its use by him will undoubtedly serve to check the commission of some crimes, to lead to the prompt arrest of criminals in other cases, and sometimes to prevent or check disorder. Yet there are corresponding disadvantages. If the police whistles are distributed gratuitously to all citizens who apply for them, they will be certain to get into the hands of unscrupulous

persons, or at least of men who lack the discretion necessary for their proper use. If their distribution is restricted it may easily lead to charges of favoritism. Most men seldom have occasion to use a police whistle, and if the whistle is placed in the hands of triflers, it will increase the work of the police to a greater extent than the benefits derived from the whistles will justify.

In some cities it has been found that where an applicant for a police permit to carry a revolver was offered the alternative privilege of carrying a police whistle, he gladly accepted it, and if the police authorities issue police whistles in the place of pistol permits to those who apply for additional police protection under unusual circumstances, it would seem that this is a case in which the distribution of police whistles would be most easily justified. Under such a rule nobody could obtain a police whistle unless he made formal application therefor, had his character subjected to a careful examination by the police authorities, paid the necessary fee, and furnished proof of unusual circumstances entitling him to this special privilege. The risk that the police whistles might get into the hands of unscrupulous individuals would be minimized in this way.

One point, however, should not be lost sight of, and this is that the police whistle is used very largely for administrative purposes. The policeman relies upon his police whistle to save his life, when he is put in jeopardy by overpowering numbers. If the whistle is placed in the hands of individual citizens, his brother officers will very frequently be called upon to respond to alarms given by citizens under trifling circumstances, and will on that account respond less eagerly and less swiftly when one of their own number is in great distress. Even though the regulations are so framed that it is unlikely that the police whistles will get into the hands of unscrupulous individuals, almost every individual lacks that discernment which can be acquired only by careful police training and experience and which enables a policeman to distinguish a serious disturbance from a trifling

occurrence. On the whole the use of police whistles by private citizens in well-policed urban communities under modern conditions would seem to have more disadvantages than advantages. Police assistance in cases of emergency can be much more easily and efficiently procured by other means.

In cases of emergency the police may be summoned automatically or by conscious effort. Whenever a crowd collects or a fire alarm is sent in, the policeman on the beat will, of his own accord, respond to determine the cause of the trouble and take proper action. The posts of the police officers in the cities are generally sufficiently short to enable them to respond to any disturbance within a reasonable time. Yet sometimes the policeman fails to respond as quickly as the person in distress may desire. This may be due to improper patrolling on the part of the policeman or to the fact that his post is too long or to the accidental circumstance that he is at the opposite end of his post when the disturbance occurs. Under either one of these circumstances it becomes necessary to call police assistance by conscious effort.

The primitive method of calling police assistance was to go to the police station or send somebody to the police station for the necessary assistance. And in many cases this is the best method even to-day. The average policeman is not a very well educated man and he is often both unable and unwilling to take action in cases which present difficult questions regarding his jurisdiction. In such cases it is advisable to go directly to the police station and lay the matter before the police sergeant at the desk rather than to risk a fruitless altercation with an ordinary policeman. In most cases the police sergeant will also refuse to act and pass the matter on to the police justice, but in any case the person in distress is more likely to receive a satisfactory explanation from the sergeant than from a policeman. Where time is of the essence of the situation, however, and police assistance must be quickly secured to

protect life or property, it is manifestly impracticable to send to the police station for it. Some means of securing it by telegraph or by telephone must be devised. Where the police department makes no provision for the summoning of police assistance by citizens, the citizen's call for assistance is sent by public telephone to police headquarters and is transmitted to the precinct from which the call originates. This method works fairly well in practice. The only objection is that although it enables the wealthier members of the community who enjoy private telephones to call for police assistance promptly, it puts the poorer people and those who are temporarily not within reach of the public telephone to considerable disadvantage.

Where the city maintains a police signal system there ought to be no objection to giving keys to the signal boxes to private citizens of known responsibility on the payment of a small fee for the privilege. It may be urged by the opponents of such a practice that it would result in the sending in of many foolish or false alarms. The same argument was urged for many years against the installation of keyless fire alarm boxes and although it is quite true that false alarms of fire are sent in sometimes, yet the number is not so large in any American city as to embarrass the fire department seriously. If the fire department which lacks a patrol and a detective force is not embarrassed by false alarms, the police department, which by reason of its organization is peculiarly well adapted to protect itself, ought not be afraid of the possible embarrassment resulting from false alarms. Theoretically the danger of false alarms is just as great—and even greater—at the present day, when anybody can send in an alarm over the public telephones to headquarters, as if such alarms were sent in from street signal boxes by individuals who had been granted the privilege by reason of their known responsibility.

It is further urged against the introduction of police alarm boxes that any such use of the police signal boxes would interfere with their use for the administrative pur-

poses for which they are primarily intended. This objection, however, is also more apparent than real, since fire alarm boxes are used both for general public purposes and for administrative purposes by a very simple mechanical device. First alarms of fire can be sent in from fire alarm boxes as soon as they are opened by the public, while special alarms and calls for additional apparatus or ambulances can be sent in only by members of the uniformed, fire-fighting force, who are supplied with keys to the inner compartment of the boxes. It would seem that police alarm boxes could be similarly arranged in such a way that the public could only send in general alarms, while the police from a locked portion of the box could send in such administrative messages as might be deemed advisable or necessary.

A proper regard for individual liberty requires that every police officer be given a badge of office, which is in the United States generally called an official shield. This is usually manufactured of silver and is worn on the left breast of the outermost garment of uniformed officers and on the waistcoat of detective officers. It must be shown, whenever an arrest is made, and resistance to an officer is lawful until he has shown his shield and given the prisoner an opportunity to examine it. Since the possession of a shield carries with it many privileges and renders it easy for a man so equipped to levy blackmail, if he is so disposed, the loss of a shield by a police officer is made a serious offense by the police regulations and offenders are punished with a forfeiture of several days' pay. A still severer penalty is inflicted upon a member of the force who is found guilty of having loaned his badge of office for any reason to a person not connected with the police department.

In the larger cities the badges of office of the higher officers of the department, the officers corresponding in rank to the commissioned officers of the army, are made of gold and in some of the smaller cities no official badges are manufactured, the officers being supplied simply with

large stars. Each member of the police force is also provided with a printed copy of the rules and regulations of the department in the form of a manual, and some cities print in these manuals, in addition to the rules and regulations, the streets and public buildings of the city. Sometimes the principal ordinances of the city and the principal criminal statutes of the state, together with advice to policemen regarding the proper performance of their duties, are also printed in these manuals. The loss of this manual is punished in the same way as the loss of the shield, though the severity of the fine is generally much less. Police officers are also supplied with fire keys and police signal box keys, though the former are now not always supplied to police officers since the keyless fire alarm boxes have come into quite general use in the United States. Transportation certificates, entitling the police officer to free transportation on the urban railways, are sometimes issued, but are not generally required at the present day, since the railways usually carry policemen in uniform or upon displaying their official badges without charge as a matter of courtesy. The Supreme Court of the State of New York has held that although the law will not interfere with such acts of courtesy on the part of railway companies, yet a statute compelling the railroads to carry police officers without charge is unconstitutional, because a deprivation of property without due process of law.

SECTION II.—RECORDS

Police Records—The Police Blotter—Report Cards—The Morning Return—Miscellaneous Records—Narrative Records—Tabular Records—Central Office Records—Reports—Patrolmen's Note-Books—Captain's Reports—Chain of Responsibility.

The purpose of police records is to prepare and keep a written history of the principal occurrences in the police organization. Such records are useful for reference when criminal and civil cases come before the courts for trial; they furnish statistical information that enables the police

commissioner to frame his administrative policy wisely and they assist the executive officers of the police force in arresting old offenders. Police records may roughly be divided into three classes:—the records kept at the central office, the records kept at the precinct station-house, and the records kept in the bureau of criminal identification. All of these records, being kept for administrative purposes and containing information of a confidential character, ought to be kept secret and none of them ought to be open to the inspection of the public, except on the special permit of the head of the police force or one of his immediate deputies. This is the rule in most of the police organizations of the world and its stringency, though often embarrassing to individuals who do not understand the purpose of the regulation, ought never to be relaxed, since the secrets contained in these police records may easily be used for improper purposes, if they are not scrupulously guarded.

The most important record kept at the precinct station-house is the police blotter. This is a large book in which are entered chronologically in narrative form all occurrences, whether they be of importance or trivial in character. The police day begins with the calling of the first roll in the morning. The blotter must contain an entry showing the name of the commanding officer who called the roll, the names of the policemen who answered the roll-call, and the particular post or other duty to which each officer was assigned. This is the most important purely routine administrative entry on the blotter, since, being repeated at each successive roll-call during the day, it furnishes a permanent record of the place and kind of service of each member of the force attached to the precinct. For example, if a citizen desires to know what policeman was posted on a given street corner five months ago, when a particular robbery was committed, he can by complying with certain reasonable police regulations ascertain this information from the blotter kept at the station-house.

Not only is the roll-call entered on the blotter, but as

soon as any policeman who did not answer the roll-call enters the station-house, the time of his arrival and the nature of the service which kept him away from the regular roll-call are entered. In addition to these administrative entries the police blotter contains the pedigrees of all prisoners. When a prisoner is brought to the police precinct station-house, the sergeant hears the charge which is made against him either by the officer or by the private complainant, and then takes the prisoner's pedigree. The prisoner is asked his name, his occupation, his residence, his age, and the sergeant in addition to entering these particulars in the blotter adds the sex and the race of the prisoner and his ability or inability to read and write, together with the offense with which he is charged. After the case has been disposed of in court, the record of the disposition is added to the entry. This information as it is entered on the blotter is useful chiefly for statistical purposes, but in every city the information is also either indexed for reference purposes or it is transferred to cards, which are filed at the central office. It is only after having been thus prepared, that this information becomes useful for reference purposes. The card system, which is the more modern method of systematizing this information and making it immediately available, is of course the better system.

To secure an efficient police administration and particularly to assist the operatives of the criminal investigation department or detective bureau, it is absolutely essential that the pedigrees of the prisoners as entered in the police blotter be transferred to and classified in the central office. The system used in most cities for accomplishing this purpose requires the desk officer of each precinct to prepare immediately after midnight a report which shall contain in addition to certain administrative data, of which mention will be made hereafter, the full pedigree of each prisoner in tabular form and the disposition of his case in court. When these precinct reports or returns are

received at the central office, they are posted in alphabetical order in ledgers, just as sales slips are entered in alphabetical order in a department store. Information, which is contained in alphabetical ledgers, is easily available for reference, but the card system of reports, which has been introduced into the New York Police Department by Commissioner Bingham, renders this information even more easily available.

The cards used are distinguished by different colors, and when these cards are received at the central office, they are arranged alphabetically and filed in filing cases. The advantages of the card system of police reports over the ledger system are principally two in number. In the first place, information contained on cards can be more quickly and more easily consulted than information contained in books, and secondly, the clerical labor and expense incident to the transfer of this information from the original reports to the ledgers is saved, when the original report card is kept as the permanent record. In New York City two primary cards are used, together with two supplementary cards. The primary cards are the white arrest card and the orange accident card, and the supplementary cards are the blue disposition card and the yellow automobile card. On the white arrest card are recorded the full particulars of each prisoner arrested and confined at the station-house. These particulars are the date and time of the arrest, the name of the prisoner, his age, color, nationality, and the nationality of his parents, his occupation, whether married or single, his ability to read and write, the name of the officer making the arrest, the nature of the complaint, the name and residence of the private complainant, if any, and the disposition of the case in court. On the orange accident card are entered the particulars of all cases in which the police assist persons who are not prisoners. These particulars are the date and time, the name of the person assisted, his age and color, the nature of the accident or of the assistance rendered, the disposition of the person, and whether the case was

reported to the corporation counsel as one which might possibly involve a civil liability on the part of the municipality.

The supplementary arrest card on blue paper is used when a prisoner is arrested after the adjournment of the court for the day, and it is necessary to send in the white arrest card before it is possible to ascertain the disposition which will be made of the case in court. All of the information contained on the white arrest card is repeated on the blue supplementary arrest card, with the addition of the disposition of the case in court, which could not be supplied, when the white arrest card was sent in. The yellow card used in the case of violators of the automobile laws contains the license number of the automobile, the name of the person arrested, the license number of the chauffeur, the name and address of the owner, the name of the chauffeur, the place where the arrest was made, the charge, the name of the officer making the arrest, the name of the magistrate before whom the case was tried, the disposition of the case, and the date. The card is used principally for the purpose of making easily accessible the data necessary to determine whether a person who is arrested is an old offender or a first offender.

The reports required to be rendered by the police regulations are of two kinds,—periodical reports and special reports. Of the periodical reports the most important are the patrolmen's reports, the daily report to the central office and the daily report to the police court. The daily report to the central office or morning return, as it is commonly called in the United States, is intended to be a critical analysis and summary of the contents of the station-house blotter for the preceding twenty-four hours. It is the means of transferring daily to the central office the information contained in the blotter. Since the morning return used by the New York police is the most advanced and best in the country, we shall describe its form briefly. At the top of the blank are given the number of the precinct and the date. The

information on the blank is divided into two divisions—administrative information and police information.

The administrative information is divided into three subdivisions, which are arranged in the form of tables. The first table gives information regarding the police officers present and attending to duty, the second table information regarding the police officers not attending to regular duty, and the third part of the report miscellaneous information of an administrative character. The information concerning the members of the police force who are performing regular police duty on the date of the report is arranged in the form of a table with headings at the top and at the left side, so that at the point of intersection of any two columns a figure can be placed. The column headings at the left side of the table are the names of the different grades of officers,—captain, sergeants, detective-sergeants, roundsmen, patrolmen, doormen, matrons, and total, while the column headings at the top of the table are first platoon, second platoon, day off, special posts, plain clothes, and total. Thus the line which is labelled patrolmen will show how many patrolmen of the first platoon were present on a given day, how many belonging to the second platoon, how many had their periodical day off, which is technically considered the performance of police duty, how many had special posts, how many were in plain clothes, and the total. The same information is also given for each of the other grades of the service. The second table, which gives similar information for the police officers who are not attending to regular police duty, has the same headings at the left side and has the following column headings at the top: Detailed by the police commissioner, absent with leave, absent without leave, sick, suspended, and total. Every member of the uniformed force attached to the precinct must be accounted for on the morning return under one of these categories. In the third section of the administrative portion of the blank is given certain miscellaneous information, including the following,—number

of patrolmen and doormen on probation, number of regular posts for foot patrolmen, mounted patrolmen, and bicycle patrolmen, number of special posts, number of mounted roundsmen and patrolmen, number of bicycle roundsmen and patrolmen, number of patrol wagons, number of horses for patrol wagons, and number of buildings found open.

That portion of the morning return which relates to the police business of the day can be conveniently divided into two parts, the first of which relates to arrests made and the second to persons assisted by the police. Originally a brief abstract of the record of each case as contained in the blotter was entered on the morning return, which made that blank a very bulky report. This is still the rule in many of the cities of the United States, but in New York City a card system has been substituted for conveying this information to the central office and only a statistical summary of the information contained on these cards is now transmitted on the morning return. The information concerning arrests is given in four parallel columns, the first column specifying the names of the particular offenses, the second the number of male prisoners arrested for each offense, the third the number of female prisoners, and the fourth the total number of prisoners. With this return is forwarded a card giving the detailed information regarding each prisoner. For the statistics of persons assisted by the police the report has two sets of column headings, the one at the left-hand side containing the titles,—sick, injured rescued from drowning, lost children, and foundlings, while the column headings at the top are, male, female, total, hospital, home, morgue, claimed at station-house, sent to police headquarters, and total. For each of these cases a card is always sent with the morning return and the whole return is signed by the sergeant at the desk and countersigned by the captain, who by his signature assumes responsibility for its accuracy.

In the smaller cities the police blotter is the fundamental

and the only record kept at police precinct station-houses. In the larger cities the number of precinct records is so large that in the present monograph we can do no more than to enumerate them briefly. These miscellaneous records may be divided into two classes: Those which are kept in narrative form and those which are kept in tabular form, and although records which in some cities are kept in tabular form are in others kept in narrative form, most cities keep them in the same manner as they are kept in New York. Police records which are kept in narrative form contain a brief record of the facts of the case recorded. The telephone blotter contains the time when messages are sent out over the telephone or received over the telephone on police business, together with the place to which they are sent or from which they are received and their full contents. Police telephone messages consist principally of communications from private citizens, containing requests for assistance and reports to the central office of large fires, robberies, and other felonies, as well as general alarms of lost persons.

The book of charges and specifications contains in narrative form the full text of all charges brought against police officers and the specifications of those charges. The circular book contains the original official orders of the police commissioner or chief, or transcripts thereof. In New York City the circular book is kept in three sections; the first section, which is kept in an automatic binder, contains printed copies of the new ordinances and criminal statutes, which are promulgated by the police commissioner for the information of the police. The second section contains the general orders issued by the police commissioner which affect all the members of the force, and the third section contains the special orders of the police commissioners, such as transfers and details which do not affect the whole force. These orders are issued in printed form and preserved as issued.

In the citizens' complaint book are recorded the sub-

stance of complaints made by citizens concerning alleged violations of the law. In the correspondence book are kept copies of all letters sent out from the police station and memoranda of all reports sent to the central office in writing. In a well organized police system the number of written official communications from the captain of the precinct to persons outside of the police department will be small, and nearly all such communications will be made by the police commissioner upon the recommendation of the captain. Yet unimportant communications, such as those relating to the finding of lost or stolen property, must sometimes be made by the captain, although even here it would probably be the wiser rule to provide that, when such reports cannot be made by word of mouth through a patrolman or by telephone, the written communication should be sent through the central office. A centralization of the correspondence of the department is highly desirable.

In the liquor tax affidavit book is entered the affidavit of the patrolman making an arrest for a violation of the liquor law, narrating the circumstances of the arrest. Of the other books kept in narrative form mention should be made particularly of the lost children book, which contains particulars regarding lost children brought into the station-house by the police; the prisoners' meal book, in which is entered the cost of meals supplied to prisoners in the station-house, when they are arrested after the court has adjourned for the day or on Sunday; the receipt book, containing blank forms of receipts for lost property found by the police and restored to the owner, and the robbery book, containing a narrative of all robberies reported to the police.

The second class of records kept at the precinct station houses consists of those which are kept in tabular form. This form of record is much to be preferred to the narrative form. In the first place, when information is systematized in columns, it is more easily accessible and more quickly found, and secondly, it takes the sergeant at the desk much

longer to compose a narrative than to fill in columns. If we bear in mind that the station-house blotter, which must of necessity be kept in narrative form, contains information concerning all the important occurrences in the precinct, we can understand how all the other record books can easily be kept in tabular form and thus serve as indices to the blotter, which is not generally indexed. The two most important records kept at police station-houses are the arrest book, which is used almost exclusively as an index to the blotter, and the force book, which is an administrative record.

The arrest book contains generally three columns. In the first column is entered the prisoner's surname and initials, the arrangement being alphabetical; in the second column is entered whether the offense is a misdemeanor or a felony and in some cities the nature of the offense; and in the third column is entered the date. The book has practically no value except as an index to the blotter, which contains a full account of each arrest. The force book contains in tabular arrangement full information concerning the members of the police force serving in a given precinct. The first column contains the officer's surname and initials, the arrangement being alphabetical, and then follow in succeeding columns his residence, his social condition, whether married or single, the date of his original appointment, the date of his transfer to the precinct, the number of his shield, his occupation when appointed to the force, the date of his transfer from the precinct, and the numbers of his fire key and signal-box key. The importance of the entry showing the officer's occupation before his appointment to the police force is frequently not understood by the non-professional observer. In the course of police duty as in military life the members of the force are frequently called upon to perform duties requiring expert technical knowledge, such as electrical engineering or carpentry during railway strikes, for example. By referring to the force book the police captain is often

enabled to call upon a member of his force well equipped by experience to perform such specialized technical work.

Among the miscellaneous records kept in tabular form at precinct station-houses may be mentioned the dangerous place book, containing the location of dangerous places, the nature of the complaint, whether previously reported by the police, to what municipal department the information is transmitted, and whether the dangerous place is properly guarded and lighted; the lamp book, showing the location of each lamp reported as unlighted by the police, the time during which it was unlighted, and the cause of its condition; the violation of corporation ordinance book, which contains the name of the offender, the nature of the offense, the time when committed, the officer and the name of a witness; and the liquor tax license book, which contains the street and number of the property for which a liquor license has been issued, the exact place on the premises where the bar is situated, the situation of the building with respect to churches and schools, the name of the proprietor, the name of the licensee, the class of license and if for a club, the date of incorporation or organization, and the name of the chief officer.

It will not be necessary to describe in detail the record books kept at the central office, since they are for the most part similar in form and content to the books kept at the various precinct station-houses, and in fact they contain merely a compilation of the information contained in these precinct records. The alphabetical force book usually contains the name, date of appointment, age, and residence of each police officer in alphabetical order, and the precinct force book contains the same information, the arrangement being numerical, according to the precinct in which each officer is stationed. The numerical shield book gives in numerical order the name of the officer to whom each shield belongs. It should be borne in mind by the layman in this connection that each shield is kept in constant use. When a policeman dies or is dismissed from the

force, his shield is given to a new appointee, and many pages are therefore required for the history of each shield.

The record of arrests, the record of accidents, the record of complaints, the record of lost children, and the record of violations of corporation ordinances contain merely transcripts of the corresponding record books kept at all precinct station-houses. These transcripts are made daily and are useful for purposes of reference and for purposes of permanent preservation. In addition to these records which are mere transcripts of precinct records there are also several record books of a purely administrative character which are usually kept at police headquarters. The trial record contains an account of the judgments rendered by the head of department on charges brought against policemen. The honor book contains a record of the action of the head of department in awarding medals and honorable mention to police officers for specially meritorious acts. The oath book contains the oath of office, which each police officer is required to subscribe upon his appointment.¹

These records as well as those which pertain to the criminal identification bureau are kept in almost every municipal police headquarters in the United States. Other record books kept in various cities are of such a local or transitory character that it is unnecessary to describe them here. Mention has already been made of the tendency in America to substitute card records for the record books. The saving of time and expense by this substitution cannot be questioned, but unless the saving of expense is comparatively large, the tendency is not to be strongly recommended. Almost all police records are records of great importance, and the ease with which card records may be accidentally lost or intentionally purloined renders their use hazardous.

In addition to the daily morning returns, police officers are required to furnish other reports quarterly, monthly, daily, or immediately upon the happening of a particular

¹ Manual of New York Police Department, 1905, Rule 3.

event. Quarterly reports are required and used only for statistical purposes and include statistical summaries of the information contained in the morning returns as well as special reports on junk shops, amusement places, employment agencies, and other places subject to special police regulation. The monthly reports are the reports required of captains for the purpose of informing the police commissioner of the condition of each precinct. In these monthly reports the police captains are required to state briefly and specifically what steps have been taken by them during the previous month for the enforcement of the provisions of the law relating to gambling, disorderly houses, saloons, low amusement resorts, suspected places, and Sunday sports; the names of patrolmen detailed to plain clothes or detective duty and the service performed by each, together with a summary of the police conditions in the precinct. These reports are transmitted by the captains to the officers intermediate in rank between the head of department and the captains, and by such officers carefully examined and certified.

From these monthly reports, if they are carefully and accurately made out, the police commissioner is able to determine the general police condition in each precinct. In many cities these reports are looked upon merely as a formality and prepared in such a manner as to be practically worthless. Where the professional head of department, however, holds the captains to a strict compliance with the regulations of the department governing these monthly reports and compels the supervising officers to revise and certify the reports before they are transmitted to him, he is able by their assistance to determine with considerable exactness the general condition of each precinct and of the whole city. When these reports are prepared in the manner in which they ought to be prepared the comparative efficiency of the various captains becomes a matter easy of determination.

Daily reports are required of patrolmen at the end of

each tour of duty concerning violations of municipal ordinances, together with complaints by members of the force or others of such violations, the nature of the complaint, and the name and residence of the complainant. These reports must be entered in the patrolman's memorandum books, together with reports of all street conditions dangerous to life and property, memoranda of all services performed by the patrolman and other incidents of interest to the police which have occurred on his post. The policeman's note-book must be signed at the end of each tour of duty by the sergeant at the desk. These note-books are kept in the United States without any particular system and their value depends largely upon the individuality of the policeman. They are kept in lead pencil, and when the policeman uses soft lead pencils, the books present an exceedingly dirty appearance and become almost illegible in a short time. These books are original records of the highest importance, and if they were uniformly written with hard lead or indelible pencils in a systematic and orderly fashion, they would become exceedingly valuable records for use in the civil and criminal courts. In European countries they are kept and used in this manner, but in America they are either not kept at all or they are kept in a careless and perfunctory manner. The similar note-books kept by the detectives in America are orderly legible records of the highest importance, and there is no reason why the patrolmen's note-books should not be kept just as well.

Of the reports which must be sent to the central office immediately upon the occurrence of special events, mention need be made only of a few of the most important. The purpose of these reports is to apprise the head of department promptly of police information of importance. Robberies are always considered of sufficient importance to warrant a special report, and indeed, captains are quite generally required to make special reports of all felonies as soon as they have been discovered, and in addition to file

a complete special report giving the disposition of the case and stating if the prisoner has been convicted, the term of the sentence, and the place of the imprisonment, as soon as the same have been ascertained after the case has been disposed of in court. For administrative purposes captains are required to report promptly to the central office any acts or deeds on the part of the men under their command which exhibit extraordinary efficiency or personal bravery, in order that such men may be suitably rewarded under the regulations. Extraordinary and unusual circumstances must be reported to the central office by telephone as soon as information regarding them is received, and when additional information is received, such additional information must be transmitted without delay. In addition a full report is required after the case is complete. Under this head of extraordinary and unusual circumstances may be included large fires, suicides or attempted suicides, accidents, bodies found, murders, riots, strikes, persons found unconscious, and the like.

The reports and records which the police are required to make and keep by the rules and regulations are of considerable importance both from a practical police point of view and from an administrative point of view. The police is essentially an army, which is constantly at war with crime and criminals, and in order that this army may be properly directed, it is essential that the central office be kept accurately informed of the progress of the fight. In time of war it is customary for the general staff of the army to construct a miniature battlefield in the office of the chief of staff and to plot on this field with small flags on pins the progress of the different divisions of the army. In the large cities the chief of police frequently finds it necessary to adopt a similar contrivance. The reports as received from the various precincts are collected and collated and the results presented to the commissioner or chief either in the form of statistics or of the more graphic method of actual representation on a field.

The most important set of reports is that which is periodically submitted by the precinct commanders showing the steps taken by them to enforce the laws enacted for the purpose of regulating the leisure of the individual, such as the laws against gambling and prostitution and the liquor laws. These laws are the most difficult of enforcement, because they impose upon citizens obligations which many of them do not recognize as necessary or desirable. The enforcement of these statutes which aim to establish a high moral standard in the community may not be essential to the proper policing of a city, which would be accomplished by preventing conditions dangerous to life and property but the non-enforcement of these statutes shows that the police administration is inefficient at its best or corrupt at its worst. It is this latter fact which makes the progress of the fight against excise violations, gambling, and disorderly houses of so much importance from an administrative point of view and which makes the reports of the captains on this subject of such great importance.

Patrolmen are required to write in their memorandum books brief notes concerning suspicious places on their beats and their efforts to secure evidence against them. Since these memoranda must be presented to and signed by the sergeant at the end of each tour of duty, the information is thus transmitted to the sergeant, who is supposed to copy it either in the blotter or into some other book for the use of the captain of the precinct. If these patrolmen's note-books are faithfully and accurately kept and examined and the reports of the captains to the head of department are likewise honestly and faithfully rendered, it is possible to establish a complete chain so that the blame for the non-enforcement of the law in any particular case can be placed where it properly belongs. The police force is essentially a military or semi-military organization, and the police commissioner or head of department should have dealings only with the higher officers of the department. The captains should be held responsible for conditions in

their precincts, and they in turn should hold the patrolmen responsible for conditions on their respective beats.

If the captain cannot or will not enforce the law in his precinct he should be tried and removed from the force for neglect of duty by the commissioner, and similarly if a patrolman cannot or will not enforce the law on his beat he should be accused by the captain and tried by the commissioner. Only by holding the superior officers themselves responsible and thus indirectly compelling them to hold their subordinates closely to their work can a great organization such as the police department be properly managed. To establish such a chain of responsibility it is absolutely essential that the reports of each man to his administrative superior be faithfully rendered. To the average administrative subordinate reports are considered to be of trivial importance, particularly because they are generally used for the purpose of compiling statistical tables which are of little value or interest to any one. Because of this feeling their preparation is neglected and, when rendered, they are carelessly prepared.

This is true of police reports as it is of all other reports rendered by administrative subordinates, and it is only by persuading the police officers from the patrolmen to the captains that these reports are very important to the chief and are used for other purposes besides the compilation of statistics that they will be more carefully prepared. Furthermore, each officer must be held individually responsible for the accuracy of his own reports and of the reports of his subordinates. Police officers are tried on charges, if the commissioner has reason to suspect that they have been personally guilty of rendering false reports or have failed to detect false statements in the reports of their subordinates. Such conduct constitutes neglect of official duty, it being borne in mind that the preparation of a report is not a mere formality and the verification of the report of a subordinate not routine work involving no personal responsibility.

SECTION III. CRIMINAL IDENTIFICATION

Finger Prints—The Taking of Finger Prints—Ridges and Creases—Classification of Finger Prints—Primary Classification—Secondary Classification—Criminal Photography—Criminal's Right of Privacy—Anthropometrical Measurements—Foot and Cubit—Ear and Stature—Eyes—Scars and Marks—Merits of the Various Systems—Advantages of Finger-Print System—Conclusion.

The use of finger prints as a means of identification is much older than the use of either of the other two systems of criminal identification,—photography and anthropometrical measurements. The ancient common law witness, who was compelled to touch the soft wax wafer with his finger, made a finger print which formed a means of identification. Wherever civilized men have come into contact with great hordes of people whom they could not easily recognize by their facial appearance, they have had recourse to the use of finger prints. The Americans in their dealings with the Chinese and the English in their dealings with the East Indians use this system.¹ In India at the present day the finger print system is used almost universally by all the officers of the government. To prevent the transfer of life pensions on the death of the beneficiary, pensioners are required to give their finger prints. Documents, if their authenticity is disputed, may be proved by the finger prints of their makers; immigrants signing contracts of indenture under the Immigration Act are required to give an impression of their left thumb on the contract; applicants for examination in the Indian Civil Service must give their finger prints on their application blanks and again when they appear in the examination hall.

The value of finger prints as a means of identification is evidenced by the fact discovered by Galton, who has carefully investigated this subject, that from early childhood to old age there is no sign of change in the general form of the pattern or the details of the ridges constituting the

¹ Galton, paper read before the Association, Dover, 1899.

finger prints of an individual. Nor is there any change in the finger prints after death. That finger prints are more valuable than photographs for purposes of identification is easily apparent, since we know that a criminal immediately after the commission of a serious crime begins to disguise his general appearance, and is often quite successful in doing so. That they are of more practical value than anthropometrical measurements must also be apparent to the careful student of the subject, since the finger prints remain unchanged throughout life, while the dimensions of the parts of the body change in the course of growth and decay in the same way as the tint and quality of the skin, the number of the teeth, the expression of the features, or the color of the eyes, though to a lesser degree. When we speak of the constancy of the finger prints, however, it should be remembered that we refer only to the details of the ridges and the general character of the pattern and not to the measure of its length or breadth, these latter being no more constant than the stature or any other of the ordinary anthropometrical data.

The first great advantage in the use of finger prints is that they are constant throughout life; the second great advantage is the fact that the appliances required for taking them are few and exceedingly inexpensive. Ordinary white paper, with the surface not too highly glazed; some printer's ink; a roller for spreading it, consisting of a wooden cylinder two inches long, half an inch in diameter, over which a piece of rubber tubing has been tightly stretched and at either end of which brass pins have been driven in to form the axle on which the handle works; and a pointer which can be made of a penholder handle with a needle or a sharp pointed brass wire laid in at one end. This pointer is used for ridge counting and ridge tracing, although persons with very good eyesight are able to dispense with this optical aid. A reading glass such as is used for looking at photographs or reading small print is more or less indispensable, and should always be kept available. For

blurred prints a common pocket lens is required. All of these articles can be readily procured in any stationery store, but a word of caution should be added. The ink, roller, and paper must be kept scrupulously clean and free from dust, grit, and hairs. The ink should be kept in a bottle or other receptacle, which can be closed tightly; the roller when not in use should be kept wrapped up in a piece of clean oil paper; the slab should be freshly cleaned each day, all particles of ink being rubbed off.

Impressions may be taken in one of two ways,—as plain impressions or as rolled impressions. A rolled impression is taken as follows: The bulb of the finger is placed upon the tin slab, over which a thin film of printer's ink has been spread, the plane of the nail being at right angles to the plane of the slab, and the finger is turned over until the bulb surface, which originally faced to the left, now faces to the right, the plane of the nail being again at right angles to the slab. By this means the ridge surface of the finger between the nail boundaries is inked and by pressing it lightly upon the paper in the same way that it was pressed upon the inked slab, the clear rolled impression of the finger surface is obtained. Care must be taken not to press the finger too heavily on the inked slab or subsequently too heavily on the paper, since otherwise a blurred or imperfect impression will result. To obtain good impressions the following details must receive attention: The tin slab in use should be free from dust, hairs, or other foreign matter; it should be freshly cleaned each day, all traces of the ink previously used being removed. A very small quantity of ink should be applied and this should be worked up into the thinnest possible film, since, unless the film is thin, the impression obtained will not be clear or sharply defined. From a finger properly inked a good impression is secured and even additional pressure will not do much harm. The paper used should be white and its surface not too highly glazed. Unless it is sufficiently absorbent, most of the ink will remain on the finger and when little ink adheres to the

paper the resulting print will in consequence not be sufficiently dark. Stress is laid upon the paper being white so as to facilitate the work of photographing, if a photograph of the impression is at any future time required. Many kinds of ink have been experimented with, but on the whole printer's ink is the most satisfactory, and it is procurable everywhere at trifling cost. Moreover, the porous paper absorbs the ink impressed upon it by the finger, and as the principal constituent of this ink is oily matter, which readily oxidizes under the action of the air, sheets containing impressions made with printer's ink may be collected at once without risk of defacement from smudging.¹

A plain impression is obtained by placing the bulb of the finger on the ink slab and then impressing it on the paper without any turning movement whatever. Though the plain impression is simpler than the rolled impression, the latter is preferable, because it shows the whole contour of the pattern, while the plain impression does not do so. The greater surface of the rolled impression also enables a larger number of points for comparison to be selected when it is a question of contrasting the details of two prints with a view to deciding whether they are impressions of the same or of different digits.

It should be explained in this connection that the ridges must be carefully distinguished from the creases of the skin. The creases are caused simply by a fold of the skin and can be rendered more apparent by partly closing the hand. They fulfill no particular function. The less conspicuous but much more numerous lines on the fingers are the papillary ridges which appear over the whole surface giving to them an appearance which may be likened to that of a newly plowed field with its ridges and furrows, or to the sand which the water in receding has left ribbed. There is no connection between these two classes of marks, the direction of the creases not determining the course of the ridges and their development being distinct. The

¹ Henry, *Finger Prints*, 16.

ridges are studded with pores, the mouths of the ducts located below the skin which secrete perspiration. Physiologists are not agreed as to the use of these ridges or as to the manner in which they have been formed. It has been conjectured that their office is to raise the mouths of the ducts so as to facilitate the discharge of the perspiration and also possibly to assist in some indefinite way the sense of touch.

The ridges grow with the growth of the body and are most marked in hands that do some work, though liable to lose their sharpness of definition and even to become obliterated in those parts of the hands where from continued pressure callosities form. Injuries do not necessarily obliterate the ridges. An ulcerated sore, eating so deeply into the flesh as to destroy the sweat glands would certainly destroy the ridges, and from the surface of such a scar the ridges would disappear. A cut leaves across the ridges a permanent thin mark, which, when the impression is taken on paper, shows as a white space somewhat similar to a crease. The occurrence in two impressions of what is obviously the same crease is a great aid to the eye, but two impressions of the same finger may be taken, of which the second may have a well-defined crease caused by cutting the bulb surface with the blade of a knife or the edge of a steel pen, while the first is creaseless. An unskilled operator missing the crease in one impression might be misled and fail to realize that the two impressions before him are identical. It cannot be too often reiterated that in comparing impressions the examiner must rely upon the similarity or dissimilarity in the type and the details of the ridges, and not at all upon the creases. If his conclusions deduced from the ridges are further corroborated by coinciding creases, so much the easier his task.

Many attempts have been made to classify finger prints, Galton proposing three standards, Purkenje nine, and Henry four. Henry's four types are arches, loops, whorls, and composites. To understand this system of classification it is

necessary, in the first place, to become acquainted with the definitions of the technical terms used. There are two kinds of fixed points, deltas, or outer termini, and cores, or inner termini. A delta may be formed either by the bifurcation of a single ridge or by the abrupt divergence of two ridges, which hitherto have run side by side. The core of a loop consists either of an even or of an uneven number of ridges not joined together, or it may consist of two ridges joined together at their summit and called a staple. In arches the ridges run from one side to the other, making no backward turn and there is ordinarily no delta, or when there is an appearance of a delta, no ridge must intervene between the inner and the outer terminus. In loops there is a delta and some of the ridges make a backward turn, without a twist. Loops are divided into two classes, ulnar and radial, a loop being considered ulnar, when the downward slope of the ridges about the core is from the direction of the thumb towards that of the little finger, and radial, when the downward slope is from the direction of the little finger towards the thumb.

In whorls some of the ridges make a turn through at least one complete circuit and there are two deltas; and there may be either a single core or a double core. Under the heading of composites are included patterns, in which combinations of the arch, loop, and whorl are found in the same print. As a considerable majority of all the impressions taken are loops, the division of loops into ulnar and radial fails to split them up into groups sufficiently small for practical purposes, and it is necessary to differentiate them still further by other methods. Two methods are employed for this purpose—ridge counting and an examination of ridge characteristics. In ridge counting a line is drawn to connect the inner and the outer termini, and the ridges which cross the line are counted. In this ridge counting, the two terminal points are excluded from the count; ridges which run close to the line joining the termini without meeting it are also excluded. When two ridges result

from the bifurcation of one ridge close to the line both are counted. In the examination of ridge characteristics each marked departure from the general system of reticulation is noted and utilized. The character of the cores, each bifurcation, each abrupt beginning and abrupt ending, and each island is carefully noted.

The rolled impressions of the digits are recorded in their natural order of thumb, index, middle, ring, and little finger, those of the right hand being in the line above and immediately below them the impressions of the corresponding digits of the left hand. At the bottom of the slip the plain impressions of the index, middle, and ring fingers of both hands are also taken. It is essential to correct classification that the digits should be printed in their proper sequence and, as it might happen that through inadvertence on the part of the operator the impression of the right index finger might appear as that of the ring finger, the following check is provided. After the rolled impressions have been taken, the index, middle and ring fingers of each hand are placed in a tin guard or mitten with a strap, which keeps them in a fixed position, leaving exposed their first phalanges. While in this position, their impressions are taken simultaneously and must of necessity appear in their proper sequence. When the slips are being classified, these plain prints are invariably compared with the rolled impressions. This check, simple as it may appear, is absolutely effective.

In round numbers five per cent. of the impressions are arches, sixty per cent. loops, and thirty-five per cent. whorls and composites. Bearing this fact in mind the finger prints are divided in the first instance into two classes the first including the loops and arches, and the second the whorls and composites. Considering the first pair of finger prints in any set we find that there are four possible combinations of these two prints in these two class divisions. We have the same number of combinations for the second pair, and as each of these can be combined with each

arrangement of the thumb and index, the total combinations of the two pairs taken together is sixteen. The third pair has similarly four arrangements, which, taken with those of the preceding two pairs, raise the number of combinations to sixty-four. Adding the fourth pair this number rises to two hundred and fifty-six, and with the fifth pair to one thousand and twenty-four. This number one thousand and twenty-four is the square of thirty-two, so that a cabinet containing thirty-two sets of thirty-two pigeon-holes arranged horizontally will provide locations for all the combinations of ten digits taken in pairs.

The primary classification can be easily determined by a simple mathematical rule. The digits are taken in pairs, the first pair being shown as the numerator and the second as the denominator of a fraction. When a whorl or a composite occurs in the first pair it counts as sixteen; in the second pair it counts eight; in the third pair, four; in the fourth pair, two; and in the fifth pair, one. No numerical value is, on the other hand, given to a loop. Thus, if the original formula for a set of finger prints was

$$\begin{array}{ccccc} L & W & L & W & L \\ \hline W & L & L & W & W \end{array}$$

the arithmetical expression will be

$$\begin{array}{ccccc} 0 & 8 & 0 & 2 & 0 \\ \hline 16 & 0 & 0 & 2 & 1 \end{array}$$

Numerators are next added together and then denominators are added together and the totals exhibited as a new fraction $\frac{10}{9}$. To both numerator and denominator one is added, making $\frac{11}{10}$, and this fraction is inverted, which gives the primary classification number $\frac{20}{11}$. This indicates that the set of impressions should be found in the twentieth pigeonhole of the eleventh horizontal row. Given the primary classification number, it is obviously easy to work backwards and determine the type of each digit. Taking the primary classification number $\frac{20}{11}$ we find

that after subtracting one from both numerator and denominator and inverting the fraction we get $\frac{10}{19}$. It is seen that ten is equivalent to eight and two. We know accordingly that whorls are wanting in the first, third, and fifth pairs in the numerator. Similarly nineteen is equivalent to sixteen, two, and one, and we know therefore that whorls are wanting in the second and third pairs of the denominator. Where whorls are wanting loops must take their place and thus we get back at once to the formula:

$$\frac{L}{W} \frac{W}{L} \frac{L}{L} \frac{W}{W} \frac{L}{W}$$

The classification numbers run not from one to one thousand twenty-four, but from one to thirty-two in each horizontal row. Thus $\frac{4}{1}$ represents the fourth pigeonhole of the first horizontal row.

Owing to the occurrence in certain primary classifications of large accumulations, secondary or subclassification is required to break up these large groups into groups of convenient size. This difficulty which is common to all systems of classification is remedied in the finger print system in the following manner. The fingers as we have seen are impressed in their natural sequence, the thumb first and then the index, middle, ring, and little fingers, those of the right hand being above and immediately below each of these digits the corresponding digit of the left hand. The index finger of each hand is taken as a fulcrum, the mark characterizing it being the capital letter of the symbol, while the mark specializing the thumb is a small letter placed to the left of the fulcrum and the marks specializing the remaining fingers being small letters to the right of the fulcrum. Those characteristics of the finger prints which are of least frequent occurrence, such as arches, tented arches, and radial loops, are utilized in subdividing, and their presence is noted in the formula.

The formula is expressed in the form of a fraction with

numerator and denominator, the numerator referring to the right hand and the denominator to the left hand. Thus the formula

$$\frac{1}{1} \quad \frac{aAr}{rRa}$$

indicates that the slip containing the impressions will be found in classification number $\frac{1}{1}$ and will be there included in the collection specialized by having an arch in the right thumb, an arch in the right index, and a radial loop in one of the remaining digits of the right hand, while the left thumb and index are radial loops and one of the other digits of the hand an arch. Similarly, subclasses are formed by ridge tracing and ridge counting and all of these subclasses are arranged for filing according to a definite system, which is not complex but is sufficiently technical to render it inadvisable to explain it at length in the present volume. This subject is explained in great detail in a book entitled *Classification and Use of Finger Prints*, by E. R. Henry, Assistant Commissioner of the London Metropolitan Police Force, from which our brief summary is to a large extent taken.

The earliest method employed in modern times for the purpose of criminal identification was photography. For the purposes of criminal photography a full-face and profile photograph must be taken of each subject. The method of taking photographs of criminals can be conveniently considered under the five headings of light, reduction, pose, attitude, and size. The full-face portrait should be lighted by a ray of light coming from the left of the subject, the right half of the picture being comparatively in the shadow. The profile is lighted by a ray falling perpendicularly upon the subject. The size of the lens should be such and the distance of the lens from the subject's chair should be such that seven units of length in the subject give on the plate a reduced image of one unit. To determine rapidly the respective position of the chair

and the apparatus, it may be convenient to seat a voluntary subject in the chair and have him hold in a vertical position in the plane of his face beside his left eye a small wooden ruler, upon which a piece of paper seven inches long has been pasted. The photographer holding in his hand a piece of cardboard one inch long can then adjust his camera by moving it closer to or farther away from the subject, until the image of seven inches on the piece of paper shall appear on his lens reduced to one inch, as can be proved very easily by superimposing the one-inch cardboard upon the lens. To avoid this difficulty, when taking the photographs of criminals, it is advisable to determine this once for always, and then mark permanently on the floor the positions where the chair and the camera should be placed.

Two photographs must be taken of each subject, one a full-face photograph and the other a profile of the right side, with the vision of the subject directed straight in front of him. For the full-face photograph the camera should be directed at the external angle of the left eye, while for the profile the camera should be directed at the external angle of the right eye. Care should be taken that in the case of both photographs the subject is sitting squarely in front of the camera, with shoulders as much as possible at the same height, and the head resting against the head rest. For the profile photograph the subject should be placed completely in the profile position in such a manner that, viewed from the camera, the head as well as the body and the chair are seen entirely from one side, care being taken, however, not to change the scale of reduction which may easily occur, when the change is made from the full-face to the profile picture, unless the operator's attention is called to the fact. The full-face photograph should be taken as far as possible without making any changes in the personal appearance of the subject, excepting that the neck should be freed of all handkerchiefs and large neckties or boas worn in winter. Since the usefulness of the profile consists largely in its representation of the obliquity of the face, care

must be exercised that the prisoner brush back any part of his hair which may hide his face. To accomplish this in the case of some subjects whose hair has been neglected, it may be necessary to fasten the hair either with twine or with an elastic band while the profile picture is being taken. Both for the full-face and for the profile picture the hair should be brushed away from the eyes, and if the profile picture does not show the entire contour of the ear, it should be rejected and a second picture taken.

The pictures are pasted upon pieces of light cardboard, the profile at the left and the full-face at the right. As great a height is allowed to the head and shoulders as the size of the plate will permit, and the size of the shoulders is not cut down at all in the case of the full-face photograph. In order to avoid all confusion in the transcription of the name and record of the prisoner and to facilitate the subsequent classification of the photographs, a number is given to each photograph corresponding to the number of the prisoner on the special register kept of all prisoners who are photographed. This number is placed upon a ticket, which is hung at the foot of the prisoner's breast, or preferably at the height of the back of the chair in the profile photograph. This ticket, which is reproduced on the photograph by the camera, will render it easy to find the name and anthropometrical measurements of each subject by a simple reference to the register kept for that specific purpose.

The photographic plates are not retouched at all, with the single exception that holes in the gelatine, which would give black spots on the proof similar to scars or birthmarks, may be eliminated by retouching. The embellishment of photographs for the purpose of making the subject appear younger by the eradication of wrinkles and imperfections in the skin cannot be too strongly condemned. Full length portraits are very seldom taken and yet sometimes when a prisoner is caught with implements of his criminal profession, which cannot be conveniently photographed in any other

way, it may be advisable to take a full-length photograph of the criminal beside his implements.¹

The photographs taken by the police form a part of the permanent records of the criminal identification bureau. They are generally preserved by being mounted either on small pieces of cardboard and filed in a filing case or by mounting them on larger boards which are hung on the wall. The classification is generally, though not invariably, a classification according to the particular crime in which the subject is a specialist. This classification is entirely for convenience in searching for a particular criminal. If a citizen complains of being robbed by a pickpocket on a street car, he can identify the criminal most quickly, if the photographs of all the pickpockets are filed in the same cabinet in the Rogues' Gallery.

In some Rogues' Galleries, however, the photographs are classified according to the class and subclass of the system of criminal identification in use in the bureau, that is according to the Bertillon anthropometric system or according to the Henry finger-print system. It is incumbent upon the police authorities to exercise diligence to prevent the inclusion of the photograph of any honest man or woman in the Rogues' Gallery, as well as to keep the photographs in the gallery a secret record open only to the inspection of those who come with a bona fide desire to identify a criminal who has injured them. This duty of the police officers, however, is a moral duty rather than a legal duty, since in most jurisdictions it is not enforceable by injunction proceedings or by an action for damages. If an individual's photograph is placed on exhibition in the Rogues' Gallery after he has been acquitted of the charge which has been brought against him, he cannot in the absence of a statute on the subject compel its removal, nor would any action for damages lie in such a case.

The ease with which a criminal can change his personal appearance, so that he cannot readily be identified by

¹ Bertillon, *La Photographie Judiciaire*, 75.

the photograph on file in the criminal identification bureau or Rogues' Gallery, led Bertillon in France to search for a more exact method of identifying criminals. Recognizing the physical fact that certain measurements of bony parts of the human frame do not vary during the period between full growth and old age, he selected the measurements of head length, head breadth, length of left middle finger, length of left little finger, length of left foot, length of left cubit, length of right ear, height standing, height sitting, and stretch of arms. This system, which involves the taking of ten measurements and two observations,—the color of the eye and special marks or scars,—is of course far superior to any system of identification in use before its introduction. When used in connection with criminal photography, it is unnecessary to make a record of the color of the hair and beard or of the form and dimensions of the nose, which should be done when photographs of the prisoners are not taken.

For the taking of these anthropometrical measurements special scientific apparatus is required. This apparatus consists of callipers and three measuring rods, two of which are fixed for vertical measurements and one for horizontal measurements. Separate instruments are generally used for measuring the hands and the feet, since reasons of convenience, easily understood, render it objectionable that the same instrument be used alternately for measuring the hand and the foot. The taking of these anthropometrical measurements seldom occupies more than four or five minutes and can frequently be done by an experienced operator in even less time. It is quite easy for the beginner to determine when he has reached a sufficient degree of proficiency to permit of his taking measurements for actual record. Whenever the measurements taken by him of the same subject on successive days do not vary materially, he may be considered an operator, sufficiently skilled to undertake practical work. To save time the subject should be introduced into the measuring

room with bare feet, and this renders necessary that the floor of the room either consists of boards, which can be frequently scrubbed, or be covered with oil-cloth over the tiling. The room must also be well-lighted and well-ventilated, and an assistant to record the measurements, as they are taken, greatly expedites the work.

The depth of the head is taken with the callipers by resting the left leg of the callipers at the root of the nose and the right leg at that point at the back of the head at which the largest reading is obtained. The observation should be repeated and the second reading should not vary more than one or two millimeters. A larger variation indicates carelessness or inexperience on the part of the operator. The breadth of the head is taken with the same callipers as the depth of the head. The legs of the callipers are first placed on each side of the head immediately above the tip of the ear and are slowly drawn upwards, while the operator observes the scale to determine the point at which the greatest reading is obtained. Bertillon himself gives three stages for the taking of each of these measurements, the first being the approximation of the measurement, the second the actual determination, and the third the verification of the measurement by fixing the callipers at the measurement found and determining whether in placing the legs of the callipers on the part to be measured, this measurement is really the maximum obtainable. If by reason of a wound on the head it be impracticable to take the cephalic measurements, mention of that fact must be made on the subject's card; and similarly if the depth or breadth of head is abnormal, the fact should be separately noted so that the abnormality may not subsequently be assigned to a clerical error. A depth of head which is more than 20 cm. or less than 17 cm. and a breadth of head which is less than 14 cm. or more than 17 cm. is abnormal.

The measurement of the left middle finger is taken with the straight arm callipers, the measurement being taken

from the extremity of the finger to the metacarpal joint, which is the second joint from the extremity. During the operation the finger should be bent. The tip of the finger should be pressed hard against the fixed leg of the callipers and the movable leg then adjusted, until the correct length of the finger is determined. The measurement can subsequently be proved by inserting the finger after adjusting the callipers to the measurement which has been found. This being a bony measurement exclusively, it can be taken very exactly to the millimeter and does not vary in different individuals more than three centimeters. Furthermore, it is not possible to deceive the operator by wilful trickery on the part of the subject in the case of the measurement of the middle finger or of the little finger. Of these two measurements, however, that of the little finger is slightly more difficult than that of the middle finger, since it is often difficult to separate the first joint of the little finger from the ring finger, which strikes against the callipers and increases the apparent length of the little finger a few centimeters. To avoid this, the little finger should be tightly wedged against the fixed end of the callipers.

Another difficulty which arises in connection with the taking of these two finger measurements is presented by ankylosis or stiffness of the joints. If the finger is stiffened in its natural position, this will not affect the measurement materially, but if the finger in its stiffened condition is bent and cannot be straightened, it becomes necessary to take the measurement as well as may be possible and then to add the measurement of the corresponding finger of the other hand, noting the fact that this is rendered necessary by ankylosis. Where the ankylosis is not complete but only partial, as it frequently is in the case of manual laborers whose hands have become hardened so that it is impossible for them to straighten their fingers entirely, the same procedure must necessarily be followed. The same procedure is also followed where one or more joints of either

of the two fingers to be measured have been amputated or were wanting at birth.¹

For the measurement of the left foot there is required a stool which is sufficiently large to permit the prisoner to stand upon it. On the top of this stool should be marked the outline of a left foot, so that the subject may know the exact place on which he is to stand. The subject places the left foot on the indicated outline and standing on his left foot only, thrusts the right leg backwards and balances himself by placing his right hand lightly upon a chair or other support. The left foot is selected because it is easier to measure than the right foot, and the subject is asked to balance himself on the left foot and support himself with his right hand, so as to force all the weight upon the left foot, thus compelling him to extend the toes of his left foot automatically. Before adjusting the callipers the operator must assure himself that the toes are properly placed in position and particularly that the great toe is not placed to one side or bent. If the toe is bent voluntarily or involuntarily, the operator must himself verify this defect, since otherwise the measurement will be valueless. If the great toe is intentionally bent, this fact is generally indicated by the position of the other toes, which naturally follow the leadership of the great toe, and also by the fact that the skin of the toe is folded. Furthermore, it is difficult to maintain this assumed attitude for a long time and unconsciously the knee will be bent to keep the balance.

After the operator has assured himself that the subject has assumed the correct and proper position, the straight arm callipers may be adjusted so that the fixed end is pressed tightly against the heel and the movable leg touches the great toe. When dealing with very flat feet with pronation, it sometimes occurs that the instep instead of forming an arch juts out so as to render it impossible for the callipers to touch the inside of the foot. In such a case the callipers must be placed against this projection in such

¹ Bertillon, *Instructions Signaletiques*, 10.

a manner that they will be parallel to the position which they would occupy in the absence of this anatomical anomaly. However high the arch of the instep may be the operator should not be afraid to exercise a reasonable amount of pressure against the heel and against the side of the foot. The greater the pressure applied within reasonable bounds the more exact will be the measurement. In adjusting the movable leg of the callipers less pressure should be used than in the measurement of the fingers, since the toes may be more easily injured, yet sufficient pressure must be used to insure an accurate measurement, and the operator must also assure himself, while adjusting the leg of the callipers, that the pressure exerted has not bent the toes. Should any of the toes be found bent or flexed, this condition can be remedied automatically by commanding the subject to bend slightly the left knee upon which he is balancing himself. It will then be unnecessary for the operator to touch the toes himself.

In taking this measurement it must be borne in mind that the object is not to fit a pair of shoes comfortably on the subject but rather to take a measurement so exactly that it can be retaken just as exactly at any future time or place. The measurement of the foot can be taken within an approximation of one or two millimeters, so that any greater variation between the three measurements which should be taken consecutively will indicate a certain degree of negligence on the part of the operator. If the great toe is permanently bent or displaced, that fact should be noted on the record, but before doing so the operator must satisfy himself that the apparent displacement or bending is due to some such cause as the wearing of too short shoes and is not merely feigned by the criminal for the purpose of deceiving the operator and causing the measurement taken to be inaccurate. If the second toe is longer than the first toe, this must also be noted on the record, and if the left foot is partially or completely amputated, that fact will be noted and the measurement of the right foot taken.

Frequently it will be necessary to take this measurement while the subject is seated, and sometimes dictates of humanity may require that the insistence upon the flexion of the knee be dispensed with. If the amputation is recent or painful, the entire measurement of the foot may be omitted and the fact noted.

The measurement of the cubit or forearm is taken while the subject stands and places his arm upon a table upon which a pair of straight arm callipers have been attached. It is not necessary to describe the taking of this measurement in detail, as the same principles apply to the taking of it as to the taking of the measurement of the foot. Anchylosis or amputation may interfere with the taking of the measurement and this measurement may also be seriously interfered with by the trickery of the subject, who may either bend his fingers moderately or may increase the natural upward concavity of the fist. When such trickery is suspected, a note of the fact must be made in the record.

In taking the measurement of the ear the right ear is selected instead of the left ear, both because of the greater ease of operation and also because in criminal photography it is the universal custom to take the right profile photograph. A specially prepared small pair of straight arm callipers is used and the measurement is generally taken immediately after the other two cephalic measurements. The subject on taking a seat is requested to bend his head so as to increase the distance between the lower extremity of his ear and his shoulder and prevent the callipers from resting upon his shoulders. The callipers are adjusted so that the fixed leg rests upon the top of the ear and the movable leg is at the bottom. The legs of the callipers are to touch the ear, but no pressure must be applied. Great care should be taken not to exert sufficient pressure to fold the skin of the ear, which must be measured, however pointed it may be. Where such an abnormal prolongation of the ear may serve as a cause of error, the fact should be noted on the



record. Ears which have been cut off or mutilated must be treated in the same manner as similarly deformed arms or feet.

The measurement of height standing and the stretch of arms can be conveniently taken together, if the two measuring sticks used for taking these measurements are fixed in a proper position on the wall. The subject assumes the military position of "At attention!" with his spine against the measuring stick used for measuring the height standing. The heels, buttocks, head of spine, and head should touch the measuring stick, and the subject should stand in his stocking feet or bare feet, with his heels together, toes turned out, knees stiff, body rigidly erect, and chin slightly drawn in, looking straight before him. In the case of persons whose spines are not straight it may be impossible to have the top of the spine touch the rod. The operator should, however, endeavor to correct the defect and compel the subject to straighten his back where the kyphosis can be corrected in this way, although there will be cases where the kyphosis being due to Pott's disease has become so pronounced and hardened that the operator cannot remedy it. The subject should be encouraged to make himself as tall as possible, care being taken that his heels remain firmly fixed upon the ground. The height is not a measurement which can be taken with absolute accuracy. The subject can by trickery or unconscious negligence deceive the operator, and a difference of several centimeters may be observed in successive observations, particularly if a few years intervene between these measurements.

In connection with this measurement the operator should indicate the degree of kyphosis of the subject who is being measured. The figures from one to six are generally used for this purpose,—one indicating mild kyphosis, two, slightly greater kyphosis, three, very pronounced kyphosis, four, exceptionally great kyphosis, and five and six, hunch-back. These figures so added in the case of individuals with crooked backs indicate the height in stature expressed in



centimeters which the individual would gain, if he held himself straight. Thus the notation 168 IV. 4 indicates that the individual measures 168 centimeters and that he has such a great kyphosis that he would be four centimeters taller, if he held himself straight.

If the measuring rod for measuring the stretch of arms is fixed in a horizontal position at the same place that the measuring rod for the height standing is fixed in a vertical position, the second measurement can be taken without much loss of time. This measurement is taken in centimeters only, no attention being paid to the millimeters. It is an exceedingly inaccurate measurement, since it is possible for the subject to trick the operator, and make the measurement from two to four centimeters greater or less than it actually is. One arm of the subject is extended until it reaches the point "zero" on the measuring rod, and the reading is then taken from the end of the other extended arm of the subject. When the subject declares his inability to extend both arms because of paralysis, rheumatism, or rachitis, the greatest stretch of arms of which the subject is capable is taken, the minimum measurement being that of a single arm plus the width of the subject's shoulders. The operator will do well, however, to add with an explanatory note the probable stretch of the subject's arms, if it were possible for him to extend them. This measurement of the stretch of arms can be used only as a secondary means of identification, because of the difficulty with which an accurate measurement is obtainable.

A final measurement, which is sometimes taken but which is in America more frequently omitted, is that of the height sitting. This should be taken immediately after and with the same instrument as the height standing, the subject being invited to sit down after his height standing has been taken. The same cautions noted in connection with the taking of the height standing apply to the taking of the height sitting, as regards the importance of having

the buttocks touch the measuring stick, and the notes which should be added in the case of kyphosis.¹

In addition to the anthropometrical measurements, the taking of which we have described in detail, Bertillon provides also for the recording of the color of the eyes and of any special scars or other marks having value as a means of identification. The examination of the eyes from the point of view of the Rogues' Gallery operator presents a problem in the physics of color rather than one in the field of anthropometry. It is essential in the first place that the operator stand with his back to the window and the subject be commanded to open his eyes widely and look into the eyes of the operator. No account is taken of the white part of the eye, and the iris is divided into two parts, the central portion and the outer portion lying next to the white of the eye. There are in the human species but two types of eyes, brown eyes and blue eyes, and all other varieties are merely variations of these two types, due to the fact that the eyes contain either more or less pigment than most of the eyes of that type. Not only is the designation of the color to be recorded, but also its intensity and comparative quantity. It is hardly advisable to explain in detail the system employed by Bertillon operators in classifying and describing the eyes. It is quite technical and is of interest only to physicists and Bertillon operators. It is described in detail by Bertillon in his book entitled *Instructions Signaletiques*, on pages 23 to 40 inclusive and on colored plate 21.

The recording of miscellaneous marks of value in identifying an individual presents points of greater interest. In the case of scars their location, form, and dimension must be given. The scar may be caused either by an abscess, a knife-cut, or a gunshot-wound, and if the cause of the scar as given by the subject seems reasonable, it should also be noted on the record. Birth-marks are similarly recorded, as are also the tattoo marks with which criminals so often

¹ Bertillon, *Instructions Signaletiques*, 21.

adorn their bodies. In selecting the marks which are to be recorded, however, the operator must select those of greatest permanence and since tattoo marks can be changed, even though they cannot be entirely obliterated, their value for purposes of identification is not as great as that of scars which are absolutely permanent. The form of the mark is indicated by the words, vertical, oblique, and horizontal, and the words square, rectangular, circular, oval, etc. The size of the scar or other identifying mark is given in centimeters or millimeters, roughly and not exactly. If a scar is two millimeters, it is so recorded, or if it is two centimeters, it is so recorded, but a scar which measures exactly two centimeters, four millimeters, is recorded as being two centimeters merely. In the case of a round scar its diameter is given. Where the marks are too numerous to be fully recorded, the most important are alone recorded with the addition of the phrase "and many others."

In every case the situation of the identifying mark must be carefully given and for this purpose four sides of the body may be distinguished,—the anterior, the posterior, and the two lateral sides. On the trunk, for example, the anterior is the chest, the posterior the back, and the lateral the right and left sides. In the case of the limbs the terms interior and exterior are substituted for anterior and posterior, according to whether the side is turned towards the individual or away from him, and the use of these terms avoids the repetition of the words "right" and "left" where their use might cause ambiguity, as for example, the right side of the right arm. The marks on the different parts of the body are generally described in the following order: left arm, forearm, and hand; right arm, forearm and hand; face and front of neck; breast; back of neck and back; other parts of the body. In each of these six parts of the body certain anatomical landmarks are selected to which the identifying marks may easily be referred. In the arm, the shoulder, elbow, and wrist form convenient landmarks; on the face, the eyes, eyebrows, nose, and mustache; on the

chest the best landmarks are the nipples. If the identifying mark is on the abdomen, use can be made of the median line, an imaginary line passing through the center of the face, chest, and umbilicus and dividing the body into two equal and symmetrical parts. In the back this median line is represented by the spinal column which forms the most convenient landmark to which marks of identification on the back can be referred. For a more exact determination of marks on the back reference may be made to the seventh vertebra, which is situated a little above the line of the shoulders. In subjects having large accumulations of adipose tissue it may be necessary to feel for this vertebra with the fingers or even to ask the subject to bend the head forward.

The importance of a careful description of these scars and other imperfections in the skin cannot be easily exaggerated. There are few individuals who cannot be identified by their scars and special marks without any reference whatever to their anthropometrical measurements, their finger prints, or their photographs. But in order that the record of such special marks may be of value in the identification of criminals it is absolutely essential that they be carefully located and that only such marks be recorded as are known to be of a permanent character. An example will explain this point better than any general description. If a scar is recorded as being three centimeters from the right nipple, it is not located, since it may be anywhere within a circumference having the nipple for its center and a diameter of three centimeters. If the description is made to read three centimeters below the right nipple, the upper half of this circumference is eliminated, but the point is still not located with the mathematical precision with which it might be located by the use of the further qualification, two centimeters from the median line. The description will have still greater value, if the form and the size of the scar are also noted. It is possible in the case of almost every subject who is being examined to find at least five or six scars or skin

imperfections, if careful search is made for them, and when these are carefully and intelligently described and located, they form an almost absolute means of identifying the prisoner at any future time.

There are three systems at present in use for the purpose of criminal identification,—photography, anthropometrical measurements, and finger prints. To these three which we have described in some detail may be added a fourth, namely that of taking accurate note of all scars and moles on the body of the prisoner, although this is generally considered to be a part of the system of anthropometrical identification. Of these three or four systems two are essentially subsidiary or supplementary modes of identification. Photography cannot be relied upon as a primary means of identification, because of the comparative ease with which a prisoner can change his outward appearance, and the noting of moles and scars cannot be solely relied upon as a means of identification, because there are some individuals who do not have any scars or moles and because many scars and moles disappear in the course of time or change their appearance after the lapse of years. The sole question remaining for consideration is the comparative value of the finger-print system and the anthropometrical system for the purpose of identifying criminals. Commissioner Henry, of the London Metropolitan Police Department, who has made a most careful and intensive study of the system of finger prints, adduces seven reasons to prove that finger prints are preferable to anthropometrical measurements for this purpose.

(a) The instruments needed to take the anthropometrical measurements are more costly, more complicated, and more likely to get out of order than the simple appliances needed for the taking of finger prints,—a piece of tin and some printers' ink, which can be obtained anywhere.

(b) The operators who take anthropometrical measurements must be put through a special course of training and must have enjoyed sufficient educational advantages to understand the figures of the decimal scale, while finger prints can be taken

by anyone, whether he is educated or not, after half an hour's practice.

(c) If the anthropometrical measurements are inaccurately taken or accurately taken but wrongly transcribed the error cannot be discovered afterwards and remedied in the office in which the records are permanently preserved, but will persist and defeat all chance of successful search. Finger prints, on the other hand, are absolute impressions taken from the body itself under conditions which eliminate errors as regards transcription and recording. Furthermore, an effective device is adopted to guard against their being impressed in wrong sequence. After the rolled impression of each digit has been taken separately, the digits are confined together in a metal guard and impressed simultaneously as plain impressions. In this way their occurrence in correct sequence is insured, and these plain impressions are compared with the rolled impressions at the time of classification. Even if they are incorrectly classified, this is of comparatively small importance, as the error will probably be subsequently corrected during some later search.

(d) The recording of the anthropometrical measurements takes much time, since, to insure reliability, each measurement should be taken three times and only the mean result accepted. Marks and scars on the body are recorded and this necessitates the uncovering of the body, which is highly objectionable in the case of women. The measurements of juvenile offenders are practically worthless, as the measurements change until the individual attains his majority. In the case of finger prints the impressions can be taken in less than one-quarter of the time required for the anthropometrical measurements, the subject is not required to take off his clothing, and the patterns of the impressions retain their peculiarities absolutely throughout life.

(e) In the case of the anthropometrical measurements a margin must always be allowed for the personal equation or error on the part of the operator. This renders search for duplicates very difficult. For example, when a card is received with length of head 18.4 it is necessary to assume that the operator may have gone wrong within two millimeters in each direction, a millimeter being about one twenty-fifth of an inch, and search must accordingly be made between 18.2 and 18.6. If these two measurements fall in different classes, one being long and the other medium, two different pigeonholes must be examined. The process of search may sometimes occupy more than an hour. In the case of finger-print records, no allowance is made for the personal equation of the operator at all and the search of a single pigeonhole is amply sufficient for all practical purposes.

(f) Search for the anthropometrical measurements is made

according to a highly complicated scale which not even the most expert operators can commit to memory. The preparation of the search slip requires much time and great care in order that there may be no omissions. Search for finger-print records, on the other hand, is not made according to a key at all. The operator determines whether each digit is a whorl or composite or not, and if it is, he gives it a prescribed numerical value according to its occurrence in the first, second, third, fourth, or fifth pair, and the sum of these values fixes the particular pigeonhole out of the one thousand and twenty-four where the card should be placed and found. The secondary or sub-classification is done just as rapidly and also without a key.

(g) The strongest feature of the anthropometrical measurements is the excellence of the system of primary classification, whereby the cards are distributed according to the length and breadth of head, length of left middle finger, length of left forearm, and length of left foot, among forty-three pigeonholes. By an arrangement similar in principle finger prints are, upon the determination of whether the pattern in each digit is a whorl or not a whorl, distributed among one thousand and twenty-four pigeonholes and effective means are provided for splitting up large accumulations by secondary classification.

A careful examination of this evidence would seem to indicate that finger prints are much more valuable as a means of identification than anthropometrical measurements from every point of view and that it is reasonable to suppose that in the course of time they will be the sole primary means of criminal identification, anthropometrical measurements being like photography, and the examination of bodily marks used solely to verify, supplement, and check off the results obtained by a comparison of finger prints.¹

¹ Henry, *Uses of Finger Prints*.

CHAPTER VIII

CONTROL OF LEISURE

"Wicked mirth never true pleasure brings."

SECTION I. PROSTITUTION

Unsatisfactory Character of American Police—Police Corruption—Vice and Crime—Cause of Police Corruption—The Control of Leisure—Masculine Vice—Feminine Vice—Physical Effects of Prostitution—Venereal Diseases—Moral Effects of Prostitution—Regulation of Vice—Medieval Regulation—Modern Regulation—Regulation in Europe—Sanitary Control—*Laissez-faire* Doctrine—Opposition to Regulation—Ineffectiveness of Regulation—Police Control in America—The American Law—The Brothel—Segregation—Other Statutory Regulations—Sanitary Control—Extra-legal License—Police Blackmail—The True Remedy—Secret Manifestations—Special Morals Police.

THE changes which are constantly being made in the administrative organization of American police forces and the general dissatisfaction with which the police administration of many of our larger American cities is regarded by the press and by those citizens who take an active interest in the municipal government, would seem to indicate that the American people as a nation has not yet solved satisfactorily the practical problems of police administration. There are many causes contributing to this result and we shall endeavor in this chapter to discuss these causes in detail. The United States is the only country in the world which has adopted the principle of uncontrolled municipal police management. In most of the countries of Europe the police force of the larger cities

is under State control, while in all, the police are subject to a strict central administrative supervision. The result is that the condition of the police of the ordinary American city is not perfectly satisfactory, because the control of the police force is subjected too much to the influence of the class to control whose action the police force has been organized. A State control of the police would tend to remove the police force at least partially from these influences.¹

In the larger cities the opportunities for the enjoyment of leisure are greater than in the country and the views of the citizens regarding the employment of this leisure are probably more liberal than those held in the rural districts. A happy compromise between the Puritanical ideas of the rural inhabitant and the freer ideas of the urban citizen is, therefore, frequently necessary to secure the best results in police administration. This feeling was expressed by the Governor of Massachusetts in 1868 in the following words:

A prosperous commerce, progress in the arts, and an increase in manufactures have concentrated our population in the larger towns and cities, intensifying the vicious inclinations and multiplying the actual number of crimes. This is apparently the price of public prosperity and wealth. Official records display an alarming increase of offenses against the person and property, of licentiousness and gambling, as well as of insanity and pauperism, which are directly traceable to lives of vice. To deal with this advance of demoralization the municipal police, however honest and well disposed, seems to a great extent inadequate. It is apparent that public decency and order and public justice require the maintenance of an executive body which shall not be controlled by the public sentiment of any locality and which shall be held in its spirit, its discipline, and its members to a reasonable and judicious but just and impartial enforcement of the statutes.²

But the administrative organization of the American municipal police forces, or the fact that they are not subject to any State control is not the sole, nor even the most

¹ Goodnow, *City Government in United States*, 225.

² Whitten, *Public Administration in Massachusetts*, 85.

important cause of the present unsatisfactory condition of American police administration. It is scarcely probable that the mere placing at the head of the police department in American cities of a single commissioner instead of a board of commissioners or even the appointment of such an officer by the State instead of by the city, would have the effect of so changing the character of the force as to remove the present grounds for dissatisfaction with the police force as a whole. Such changes would only concentrate the responsibility for its management and take it to a considerable degree out of local politics.

The most common complaint against the city police in America is that either as a body or through its individual members it sells the right to break the law.¹ As we have endeavored to show in a previous chapter this is not a charge which is brought against the police department alone. The same complaint is frequently heard concerning other city departments and concerning departments of both the State and the National Government, and it is by no means unheard of with regard to the police of other countries. The persistence and the universality of the complaint in the cities of the United States, however, cannot fail to produce the impression that the habit is more widespread and more deep-seated in the case of the American municipal police than it is elsewhere. Police corruption, as such, is confined almost entirely to the selling of the favor of the police department for the pecuniary gain of the individual members of the department, to those who wish to violate the laws which have been passed by the constituted authorities regulating the enjoyment of the leisure of the citizens.

From this statement it should not be understood that the police levy blackmail only upon liquor dealers, keepers of brothels, and gamblers. Undoubtedly the police who levy blackmail upon these offenders against the law would in most cases be quite as willing to levy blackmail upon highway robbers, pickpockets, and burglars, but the number

¹ Goodnow, *City Government in United States*, 228.

of offenders against the ordinary criminal laws is so small, comparatively speaking, that the amount of money which can be collected from them by the police is a negligible quantity. Furthermore, the average policeman is not brought into intimate contact with these more serious offenders with sufficient frequency to make the systematic levy of blackmail practicable or profitable, and many police officers have a natural repugnance for such offenders, which prevents them from associating with them on intimate terms. The corrupt selling of privileges to professional criminals of the burglar and pickpocket type becomes a monopoly in which only the central office detectives can profitably engage and may for that reason be ignored for the present.

We have already referred in a previous chapter to the fact that as a body the individual members of the American police forces are better men than can be found in any country of the world. They are more intelligent, better able to act on their own initiative, more alert in their attention to duty, and possess probably a larger degree of personal courage, or at least are willing to risk their lives in the service of their community more readily, than is the case with the average policeman in foreign countries. Like all general estimates of a body of men varying to such a large degree as do the members of the police forces of the different American cities, this statement must be accepted with the limitations to which all general statements are subject, but as an average statement it is believed to be well founded and in accordance with the weight of opinion of the best informed men of this country and abroad.

If the personnel of the American police forces is certainly as good as that of any police force in the world, and in the opinion of many far superior to the character of the men who compose the police forces in other countries, and if as we have endeavored to show the defects in the administrative organization of the American police forces, however great they may be from a purely theoretical point of view,

are not sufficiently grave to account for the unsatisfactory character of American police administration, the cause of this unsatisfactory condition of affairs must be sought outside of the police department. This cause can be found in that particular in which police administration in America differs most radically from the discharge of the similar police function in European countries. The laws in America do not attempt to distinguish between what is vicious and what is criminal.

An act is vicious when, according to the ethical standards of a majority of the citizens in a country in which the citizens themselves make the laws, it is of an immoral character. Ethical standards differ and change according to the time and place of the observation. What is considered proper to-day may be considered vicious in a few years, and what is considered proper in one country or town may be considered vicious in another. The drinking of alcoholic liquor to excess, though considered vicious to-day, has not always been so considered, and while in some cities of the United States any indulgence in alcoholic liquor is considered vicious, other cities take a more liberal view of the matter and permit indulgence, provided such indulgence is not carried to excess. Whether an act is criminal, on the other hand, depends upon an entirely different test. An act is criminal when its performance is forbidden by the constituted authorities of the State and the violation of the statute is punished by a fine or by imprisonment. An act ought to be made criminal only when it is socially expedient to punish it criminally. In abstract theory the viciousness of an act ought to have very little to do with the matter. The State may find it necessary to prohibit acts which are by no means vicious and to enforce such prohibitory statutes with a penal sanction. To store building material on the street is not an immoral or a vicious act, and yet necessities of municipal regulation and administration require that the violation of an ordinance prohibiting such storage be punished criminally. On the other hand, many vicious

Real
problem

immoral prohibition
not a crime

acts are not punished criminally. Promiscuous sexual indulgence is vicious, but not every form of this vice is punished criminally.

The American people, or at least the American legislators, do not make this clear distinction between vice and crime. There seems to be a feeling in America that unless a vice is made a crime, the State countenances the vice and becomes a party to its commission. There are unfortunately a large number of men in the community who believe that they have satisfied the demands made upon them to lead a virtuous life, by incorporating into some statute the condemnation of a particular vicious act as a crime. The fallacy of the reasoning that a failure to declare a vicious act a crime amounts to the ratification or condonation of the viciousness of the act needs no extended explanation. The declaration of the criminality of an act is simply a question of expediency. If the State comes to the conclusion that it costs more to attempt to punish a vicious act criminally than it is worth to the community, a failure to prevent it by police regulations is in no sense a countenancing of it.

The fact that the cost of attempting to punish as a crime what is only vicious far outweighs the benefits derived therefrom is undoubted in American police administration. The American police forces have been corrupted almost solely by the statutes which have been placed on the statute books regulating the leisure of the citizens. Under American conditions at the present day it is possible for the State as a whole to regulate the leisure of the inhabitants of the city in accordance with its own Puritanical ideas. The State may regard as vicious and declare as criminal the drinking of beer on Sunday, because a large number of the rural inhabitants of the State believe in such a law, while in the cities the drinking of beer on Sunday is not only not regarded as vicious but it may be perfectly innocent from every point of view. The enforcement of this Puritanical law is placed in the hands of a police force

which is recruited from the citizens of the city and which is controlled by the moral influence of the city.

If public opinion authorizes the enactment of statutes which the same public opinion does not insist upon enforcing, or if the public opinion governing the making of the laws differs from the public opinion which regulates their enforcement, there is cast upon the police force which must enforce the law a temptation too great for human nature to resist. If corrupt practices are likely to result when too much discretion is vested in the subordinate officers of an administrative organization, who are unable properly to exercise such a discretion, it is much more likely that corruption will result when such subordinate officers are ordered to enforce a law which a majority of the citizens not only refuse to obey but believe to be unjust. At the present day there is no more successful get-rich-quick institution than the control of an American municipal police force, and in making this statement neither the superior officers of the department nor the subordinates should be criticised unduly, this unsatisfactory condition being due almost entirely to the fact that what the State which passes the statutes regards as criminal the people of the city regard as innocent. The people of the city, accordingly, are quite satisfied to see the police force sell the right to disobey a law which the city people regard as unjustifiable.¹ In the present chapter we shall endeavor to show how the attempt of the legislature to regulate the leisure of the people of the urban communities in a manner at variance with the wishes of a majority of the inhabitants of the cities, has caused not only corruption but also the demoralization of the American police organizations.

The integrity of the human race depends upon its moral tone, and since work, even under the most disagreeable conditions, seldom causes moral wrecks, the State and the City are obliged to control the leisure of the citizens to preserve the morality and the integrity of the race. It is

¹ Goodnow, *City Government in United States*, 232.

the constant tendency of American life and particularly of American municipal life to shorten the hours of labor and lengthen the hours of leisure, and with this tendency there goes another, the tendency, namely, to intensify the work during the shorter hours of labor and thus render men unfit for serious attention to self-improvement during their hours of leisure. When a man actually manufactures something, or makes something for himself, he can work longer with less injury to his physical well-being than when he is merely a cog in a machine, and since modern factory conditions make of the operative more and more of a machine, his bodily welfare is being injured, even though his hours of labor are shortened.

The high tension of modern urban life is best relieved when the leisure of the operative is enjoyed in the company of a loving wife and children in a pleasant home. But American urban conditions with their congestion and their unsanitary dwellings tend to make this pleasant home life difficult of attainment. The home upon which the integrity and the morality of the city must depend is being driven out of existence by our urban conditions. Among the poor, poverty renders the maintenance of a true home almost a physical impossibility. A few rooms in a tenement house can be called a home only in jest, and when in these few rooms, already uncomfortably filled with the members of the occupant's family, strange boarders are taken in to eke out the scanty income of the wage-earner, all semblance of home life is lost.

Among the well-to-do true home life is disappearing just as surely though less apparently. The number of comparatively well-to-do members of the urban communities who own their own homes is steadily decreasing. Statistics are not available to prove this assertion, since the statistics of the United States census do not make any distinction between those who live in apartment houses from choice and those who live in tenement houses because they cannot afford any better living accommodations.

To the real estate broker and to the careful observer of urban conditions, however, this constant decrease in the number of private dwelling houses has long been apparent. The moving of those who can afford to live in private houses into hotels and apartment houses is constantly increasing, and whatever may be the boasted comforts of life in a hotel, or in an apartment house, children are out of place in such dwellings. Children are deprived as much of their natural comforts in apartment houses and hotels choked with artificial luxury as they are in tenement houses reeking with filth, and this gradual banishment of children from the homes of our cities is one of the deepest tragedies of our modern civilization.

Though the city dwellings are becoming yearly more unfit for the birth and rearing of children, the conditions of urban life, and particularly the intimate association of men and women during the hours of labor and the hours of leisure, and the exploitation of the charms of sex outside of the home, tend to stimulate the passion, the satisfaction of which normally results in bringing children into the world. Although the housing problem is intimately connected with the problem of prostitution, its effect is felt most directly in the realm of female vice and it will be considered further in that connection. Male vice is stimulated in the cities by the fact that the cost of living is sufficiently high to deter the young men from marrying early in life.

The population of the cities is made up in large part of young men who come to the city from the rural districts, being attracted to the city by the greater opportunities for advancement. The income of the young man in the city, whether he is city-born or an immigrant from the rural districts, is seldom sufficiently large to permit him to marry and found a family under urban conditions, without considerable sacrifice to himself. This leads many young men to postpone their marriage until an indefinite date in the future. The thoughts of an un-

married man center almost entirely in himself and when the thoughts of an individual center in himself, it is but seldom that they are engrossed by the work in hand, particularly if that work is not of an intellectual character. It is more natural for the thoughts of such men to be taken up with the pleasures which can be obtained from day to day, and particularly with the sexual pleasures, which are the strongest native impulses of the normal man.

Not only do modern urban conditions tend to banish the true home, which is the best insurance against sexual vice, and not only do these conditions tend to postpone the early marriage of the young men, which is another safeguard against the social evil, but they also take away the only other important check against sexual indulgence,—the opinion of a man's neighbors. In the city a man has no neighbors. Few men know the doings of their closest friends and fewer still care what the secret life of their friends may be. The fear of social ostracism, which deters many a man in the rural districts from taking the first step in violation of the principles of continency, need deter no one in the city.¹

It has been the custom of the world to throw the blame for illicit sexual intercourse entirely upon the woman, because upon her the physical effects of such conduct are the most serious. It has been customary to regard women as the enticers rather than men as the seducers. Hence the prostitute has always been banished from society and cast out by her friends, while the profligate frequently does not suffer at all in the estimation of his friends. Whatever may be the justification of this conduct of the world, which is due in large part to physical and physiological laws and also to the fact that the laws and customs are largely framed by men, it is undoubtedly extremely uncharitable and it is a cause which sends many recruits each year into the army of prostitutes. This uncharitable attitude of the world frequently goes so far

¹ *Report of Committee of Fifteen on the Social Evil*, 9.

as to cast out from her home the young girl who has been seduced by her unfaithful lover, and such unfortunates are frequently forced into the ranks of the prostitutes as the only means of earning a livelihood.

The ranks of the prostitutes are recruited not only from such unfortunates, but also from the tenement house dwellers. If a female child is born and bred in a room of a tenement house, she loses very early the modesty which is the great shield of purity. Personal delicacy is almost unknown to her. Living, working, and sleeping in the same apartment with men and boys of various ages, it is almost impossible for her to retain any feminine reserve, and she passes almost unconsciously the line of purity at a very early age.¹ A third means of recruiting the army of prostitutes is by the systematic employment of procurers or "cadets," as they are called, and this system being very intimately connected with problems of police administration will be considered later.

In order that we may properly understand the difficult problems of police administration connected with the subject of prostitution, it is necessary not only that we understand clearly the principal causes of prostitution, but also its more important effects. Only a short time ago discussion of venereal diseases was absolutely tabooed. Ears polite, even though professional, were offended by their very mention. The fact that it is possible at the present day to discuss venereal diseases with clergymen, teachers, and public-spirited citizens is due largely to the efforts of the American Society of Sanitary and Moral Prophylaxis, founded by Dr. Prince A. Morrow in New York City. Venereal diseases differ from other diseases which endanger the health of the citizen and of the community in two important respects.

Contrary to other affections, they are not openly manifest to warn the non-infected of their presence, but when most contagious, they are covered by the patient's clothes

¹ Wilcox, *American City*, 124.

or hidden in inside cavities of the body. In the second place primary venereal affections are acquired in yielding to the most imperious of impulses and one ever present with the majority of men, thus negating whatever influence ordinary prudence might have in avoiding the contracting of other diseases. Before considering the physical effects of the various venereal diseases more in detail, mention should also be made of the fact that although the pain of gonorrhœa may be agonizing, it is generally of short duration and ordinarily patients with acute venereal diseases suffer little or not at all. These circumstances added to the natural desire to conceal the fruit of moral weakness, and the general ignorance of the possible consequences lead an appreciable number of patients to neglect these diseases entirely or else to resort to the advertising quacks and nostrum-vendors for treatment.¹

Chancroid, though itself only a local sore as distinguished from a constitutional disease, frequently destroys large portions of the penis, leaving it a mutilated organ with which copulation is impossible. It may invade the region supplied with large blood-vessels and corroding these cause copious and dangerous hemorrhage, or it may lead to gangrene. When situated on the urethra, the destruction of tissue may cause the most severe forms of stricture. The complications of chancroid are even more dangerous to the individual. The most frequent is bubo, which causes excessive pain. In alcoholic or tuberculous patients it almost invariably leads to perilous hemorrhage and takes many months to heal. Phimosis and paraphimosis are other complications which, unless relieved by prompt surgical operations, cause pain and the loss of a large portion of the male sexual organ. Chancroid of the female genitals is seldom accompanied by such dangerous results as the same disease in man, and although inoculation is exceedingly easy, extra-genital chancroids are not met with as frequently as might be supposed. Yet chancroids have

¹ Valentine, *Vermont Health Bull.*, vii, No. 2, p. 4.

at various times been observed on the patient's lips, eyelids, breasts, and thighs.

Gonorrhœa, which is the most common of the venereal diseases, is frequently slight and may be easily cured, if the patient has good resistance. In the United States Army, in which the disease affects primarily young soldiers in fine physical condition, good results in its treatment are almost always obtained.¹ The resistance of the majority of civilians, however, does not come up to the normal, and the disease accordingly frequently has dangerous complications. Orchitis may destroy a man's procreating powers forever; and gonitis, resulting in ankylosis, frequently destroys his working ability. Then, too, the germs of the disease, the gonococci, may be carried in the blood current and thus fatal diseases of the heart, brain, or kidneys may result. Blindness from gonorrhœal ophthalmia must also be mentioned in this connection, although this disease is no longer as common as it formerly was, because the public has been quite generally informed regarding the danger of carrying pus to the eyes.

Female gonorrhœa is far more dangerous to the community than is the same disease in man. The public prostitute who cohabits with any number of men for hire, the clandestine prostitute who is still more dangerous, because she entices men under the pretext of not being a bawd, and the female who cohabits promiscuously from mere moral perversity offer appalling opportunities for the spread of this disease. Gonorrhœa is rendered much more dangerous by reason of the fact that its presence may not be at all evident upon a careful examination of the organs of the person affected. This is one of the reasons why the state regulation of prostitution in European cities is far from being a success from the sanitary point of view. And finally gonorrhœa in virtuous women, who have been infected by a dissolute husband or by a faithful husband who believed himself cured before he contracted his

¹ Woodruff, *Medical Record*, March 16, 1901.

marriage offers a peculiarly pathetic menace to the State, in that it destroys the wife's capacity for motherhood.¹

Syphilis, or pox, is the venereal disease with which the general public is best acquainted, principally because of the references to this disease in the Bible. These biblical references have been reënforced by the medical literature of the quacks. Though the best medical authorities are of the opinion that syphilis is always curable, the public still needs to be enlightened on the manner of the cure. The fact that nobody can be cured of this disease unless he consents to be treated by a competent physician for at least thirty-six months, and the terrible consequences attendant upon the neglect or improper treatment of this disease render it an extremely dangerous disease to the community and to the physical efficiency of the individual member of the community who has become infected. Mention should also be made of the fact that syphilis like the other venereal diseases is not always of venereal origin; it may be contracted by the innocent as well as by those guilty of immoral conduct.

Grave as are the physical dangers attendant upon prostitution which we have just described, the moral effects of prostitution are even worse. Prostitution represents a phase of human slavery as degraded and offensive to the spirit of freedom as that form of slavery which was abolished by the Civil War of 1861. The sale of the use of one's body to another in the sex relation is so gross an offense against humanity that no clear-seeing citizen of the world can contemplate it without horror. The dangers which accrue from unregulated prostitution are serious. Unrestrained indulgence in sexual vice results in moral degeneration far more hideous and dangerous to society than venereal disease. The impulses which lead to sexual vice are not capable of complete satiation, but grow with feeding, and there is always danger that those who have been perverted by such indulgence will turn to other criminal

¹ *Vermont State Board of Health Bulletin*, vii, No. 2, p. 6.

avenues of activity and jeopardize the safety of the State in other ways. Not the least of the moral effects of prostitution is the corruption of the police force by reason of the fact that American States quite generally pass laws against vice in order to prove themselves respectable and then the police force, in accordance with public opinion, neglects to enforce them and seizes upon the opportunity to enrich the members of the municipal administration or even the members of their own administrative organization by the levy of blackmail.

If vice is dangerous to the physical and moral welfare of society, as we have endeavored to show, the first remedy which suggests itself is that of repression. Regarding the subject of prostitution from the historical point of view, we find that the ancient Hebrews were the only nation that recognized that prostitution was in itself a serious evil and attempted to repress it. In Greece and Rome and during the Middle Ages vice was regulated rather than repressed. Moses forbade Jewish women to engage in prostitution and also refused to permit foreign prostitutes to remain in the cities.¹ But though the Hebrews recognized the dangers incident to prostitution and sought to repress it, their endeavors in this respect were not entirely successful. Foreign prostitutes plied their vocation in their midst.² The attempts to repress prostitution have never been successful. Like pauperism, prostitution is a product of civilization which it is impossible to overcome by repressive measures. But even if it cannot be repressed, it would be illogical to come to the conclusion that on that account the only course to pursue is to recognize its existence as inevitable.

Though the old proverb runs, "What cannot be cured must be endured," the suffering incident to such endurance can be alleviated. It is not true that the social evil is ineradicable, and that the best and purest in civilization

¹ Deuteronomy, xxiii, 17.

² Hügel, *Zur Geschichte der Prostitution*, 15.

could not have existed but for the sacrifice of a portion of womankind to immorality.¹ We know that vice varies in different places and at different times and this would seem to indicate that the causes affecting its existence do not operate with uniform force. Eradication of an evil requires the removal of all its causes; regulation, on the other hand, requires the control of some of its causes only. If a phenomenon varies at different times and different places, it ought to be feasible to control at least some of its causes. The Committee of Fifteen, which made the best and most careful study of this problem in New York City, came to the conclusion that, although the influences which are chiefly responsible for the great mass of vice are not within the control of the government, yet its extent may be limited by a judicious policy of prevention. The ranks of the prostitutes are recruited, it is true, to a certain extent from women who belong to a distinct class recognized by criminal anthropologists as women who from innate perversity choose this calling. The number of prostitutes who belong to this distinct class, however, has been exaggerated.

More are attracted to their life of shame by the large earnings and the rich attire of the prostitute, for which the male factor in prostitution is responsible, since they are the direct result of the large demand for the service of the prostitute. But the number of natural prostitutes and the number of those who are attracted to prostitution by the rewards resulting from the large demand are a comparatively unimportant factor in this problem. Although statistics are wanting, it is undoubtedly true that the greater number of prostitutes enter upon this life because their social condition is so hard and so unattractive that, being imbued with the idea that individual happiness is the end of life and recognizing the fact that their hard life in factories and workshops is not likely to result in such happiness for them, they begin to experiment with immorality in the hope of earning more money in that way and

¹ Lecky, *History of European Morals*, ii, 299.

thus getting more pleasure out of life. Society can do much to limit the extent of the social evil by improving the condition of those women who find in vice the greatest attraction and the greatest source of pleasure. The improvement of those tenement conditions which early deprive girls of their modesty, anything which serves to relieve the individual distress of working women during periods of non-employment, when so many are driven to prostitution as the only means of earning a livelihood, the furnishing of refined amusements to those women who are obliged to spend their days in the grind of the factories, and the suppression by the police of all the outward manifestations and allurements to vice, would go far toward reducing prostitution to a minimum.

The repressive policy of the Hebrews was continued in the early days of the Middle Ages. Tacitus states that women of unchaste life in the German tribes were punished by death, and in other parts of Europe they were banished or beaten with rods. This rigorous treatment of the vicious underwent a gradual change as the population of Europe increased. Public houses of prostitution were established in London in the twelfth century and on the Continent soon afterwards. The public houses were established at public expense, the purpose of medieval regulation being three-fold. The first and most important purpose was the prevention of vicious conduct on the part of the wives and the daughters of the citizens. Severe penalties were inflicted upon such offenders, and it was hoped that if provision for the satisfaction of the vicious impulses of the floating population was made, the family would be secure from invasion. The inmates of the public houses were foreigners and they formed a class absolutely distinct from the rest of society. There was no trace of the modern feeling that vice should be hidden from respectable society; on the contrary, prostitutes were required to wear a distinctive mark such as a red ribbon on the sleeve, so that no mistake as to their identity might be

made. The second object of medieval regulation was the prevention of disorder in brothels. Prostitutes and criminals have always been good friends, and the proper policing of the brothels has always been a matter of grave concern to the city authorities. The third object of medieval regulation was the securing of revenue. Church and State had no hesitation whatever in levying taxes upon the prostitutes.¹

Modern regulation of vice differs from the medieval regulation in two important particulars. Medieval regulation sought to protect the citizens of the city by debauching an alien class. When the unit of society changed from the city to the state, it was impossible to provide a vicious class, except by debauching members of the same social class. Every modern system of regulation, accordingly, instead of aiming to recruit an army of prostitutes, so as to keep the family secure from invasion, aims to prevent as far as possible the degradation of those who are not yet depraved and to effect the rescue and restoration to honorable life of fallen women who are still susceptible to moral persuasion. An entirely new element is introduced by the endeavor of the modern systems of regulation to stamp out the diseases which everywhere accompany vice. Sanitary regulation is an entirely modern innovation. Nothing comparable to it existed during the Middle Ages, principally because medical science had not yet reached a position sufficiently advanced to discover clearly the relation between vice and disease, and the highly contagious character of the venereal diseases.

The attempts to break the alliance between vice and crime, which formed so important an element in medieval regulation, are continued at the present day and the same expedient of fixing the responsibility upon groups, rather than upon individual prostitutes, is continued to-day, although the group to-day is the brothel rather than the guild or union of prostitutes. As regards the use of pros-

¹ Committee of Fifteen, *The Social Evil*, 21.

titution as a fiscal agency, even this portion of the medieval system of regulation has not disappeared entirely. The State, it is true, no longer levies a tax upon the keepers of disorderly houses, but the system of fining such keepers at regular periods in many American cities, though an extra-legal device, is in fact a system of taxation, though not such in legal theory.

It is impracticable in the present monograph to describe the system of police surveillance over prostitutes in the great European capitals in detail; we can only describe briefly the form of the regulation and the organization of the police force which has control of this subject. The legal recognition and toleration of public prostitutes ceased in Europe with the great epidemic of syphilis. This epidemic resulted in the restoration of the ancient laws making prostitution a crime and placing in the hands of the police authorities a large discretion in determining the guilt of prostitutes and the term of their confinement. Since the power of punishment lay in the sole discretion of the police authorities, it was easy to introduce the sanitary element into this system of police surveillance, by providing that the treatment of diseased prostitutes be compulsory. This was done and it became the practice to make periodical arrests, treat those who were ill, and discharge those who were free from disease without imprisonment.

The registration of prostitutes by the police was introduced not so much with a view to sanitary control as to lessen the disorder which the prostitutes created in the city. In Paris at the present day, prostitution is tolerated by the police, if the prostitute has previously registered with the police. Such registration, which may be either voluntary or by order of the chief of the Morals Police, carries with it the obligation on the part of the prostitute to undergo a weekly or a bi-weekly medical examination, to determine her freedom from venereal disease. If she is found to be diseased, she is sent to the public hospital to be cured. Secret prostitution is punished so severely by the police

that many prostitutes register voluntarily with the police, in order to avail themselves of the toleration offered by the police to registered prostitutes.

The control of prostitution is placed in the hands of a special body of Morals Police, which forms a part of the secret police service. The ordinary police have nothing whatever to do with prostitution, except where there are grave violations of public decency or public order. These special police agents must of necessity be men of great tact and men upon whom reliance may be placed, because of the great responsibility which is placed in their hands. The Paris Morals Police has a very weak legal basis for its existence.¹ It may be possible that this fictitious legal basis has increased the efficiency of the service, by reason of the flexibility which has been attained in this way, although it must be confessed that it has always been a favorite point of attack for the opponents of the system of regulation. The system of regulation in force in Berlin does not differ essentially from that in force in Paris. The fact that in Paris prostitutes are restricted to licensed houses and that in Berlin brothels are forbidden is a difference which is more apparent than real, since not one-tenth of the registered prostitutes of Paris live in licensed houses.² It may also be remarked that in Germany prostitution is considered a status similar to the status of the soldier and this gives to the police authorities a larger legal authority over the prostitute than they would be allowed in the case of an ordinary citizen.

The predominant characteristic of the European regulation of prostitution and the characteristic which differentiates modern regulation most distinctly from medieval regulation is the fact that the modern regulation aims to check the spread of venereal disease. The statistics which have been collected to show the extent to which venereal diseases occur in the different countries of the world are far

¹ Committee of Fifteen, *The Social Evil*, 34.

² Conference Internationale, Brussels, 1899, *Enquêtes*, i, 146.

from satisfactory,¹ but they are sufficient to justify the opinion that venereal disease is one of the most serious menaces to the public health, and that no less energetic measures should be taken to stamp it out than are employed to check the ravages of any other serious contagious disease. The endeavors to check the spread of venereal diseases are of comparatively recent origin, because such diseases have been regarded as the result of a voluntary exposure by means of an immoral act.

If it were the case, as many have asserted, that only the incompetent, degenerate members of society thus voluntarily expose themselves, we might be justified in neglecting their diseased condition, but any physician will bear witness to the fact that those who are so diseased are by no means all nor even largely of the unfit. Moreover, although venereal diseases are certainly validly distinguished from other contagious diseases by reason of the fact that they are voluntarily contracted, it does not follow that the person who contracts them is always absolutely responsible for the penalty which is inflicted upon him. If society permits men to grow up in an environment which is inimical to virtue, some may argue that it is inhuman to permit them to suffer from diseases which might be prevented by systematic sanitary regulation. Furthermore, very many individuals are infected with venereal disease without any immoral act on their part, and in their case certainly the plea of voluntary exposure to contagion cannot be put forth. It has been estimated that from one and one-half to three per cent. of all cases of venereal diseases are caused by extra-genital infection.²

This somewhat long digression into the subject of prostitution has been rendered necessary by reason of the fact that the educated layman in this country is not as well informed on the subject as he is in almost every other civilized country. The subject has been tabooed until

¹ Conference Internationale, Brussels, 1899, *Enquêtes*, i.

² *Ibid.*, i, 264.

within the last few years. If physicians were not privileged to discuss it in their meetings without losing their professional standing, it may be certain that laymen could not with propriety study or talk about the subject. This attitude of the American people has had an important effect on American legislation and on American police administration. No American city has a legal system of regulating the social evil. This fact in itself might not be of great importance, as we shall endeavor to show that state regulation, as it is practiced in European countries, is entirely unsatisfactory from an American point of view. But the American people have not been satisfied with the pure *laissez-faire* doctrine. They have also enacted statutes which make prostitution a crime, and the police have been quick to seize upon this opportunity to permit for a consideration the commission of a criminal act which cannot be prevented by statutory enactment unsupported by public opinion.

The opposition of the American people to any system of state regulation of the social evil has been based upon legal principles as well as sentimental grounds and scientific principles. Viewed from sentimental grounds, the state regulation of prostitution amounts practically to a legitimatization of vice and renders it extremely difficult or impossible for those women who have fallen into vicious habits of life to reform. By creating a class of administrative chattels for the use and enjoyment of the vicious, the state outrages the deepest sentiments of humanity, and by discriminating between vicious women and vicious men it insults womankind. Even if it could be proved that the sum of human happiness would be increased by the introduction of a system of regulation, it is doubtful whether it would be politically expedient to introduce it in the United States, because of the great popular opposition.

Under the system of regulation in Paris the police endeavor to keep the prostitute in good health for the sake

of her clients. Those who favor a system of regulation often paint all prostitutes as hideous, degenerate creatures, stained through and through with every form of vice and recognizable at a glance. If this were true, the advantages resulting from a strict police control of this vicious class might perhaps outweigh its disadvantages, but it is a great mistake to suppose that even a large proportion of the prostitutes are easily distinguished from the decent members of society. With a majority of the prostitutes the life of shame is a temporary state, to which they resort during times of distress or during certain years in which their passions are strongest. They conceal their manner of life from their friends and they do not even admit to themselves that they have taken an irrevocable step. The majority of them do, in fact, abandon their life of shame.

It is true that to the average American there is something repulsive in the restoration to decent society of a woman who has lived a vicious life. In the small town the girl who has been betrayed by her unfaithful lover is cast out of society, and society would like much more to thrust from itself those who have sold their honor voluntarily or under stress of economic circumstances. But the government has no right to refuse to any one the privilege of reforming. Under the Paris regulations it is almost impossible for the fallen woman to reform. If a prostitute, whose name is upon the official police register, wishes to reform, she must present a petition to the police authorities, giving her abode, and occupation, and she must bring forward some honorable person who will give a guarantee for her good conduct. She must furthermore for three months report once a week at the sanitary office and submit herself to the official medical inspection.¹

In addition to the difficulties attendant upon the reformation of registered vicious women, it should be remembered that no amount of sophistical discrimination between the words toleration and recognition can conceal the fact that a

¹ Powell, *State Regulation of Vice*, 29.

system of regulation makes of prostitution a legitimate industry, subject to regulations on behalf of its patrons, identical in nature with the early regulations as to the weight of a loaf of bread. Almost every one is familiar enough with human nature to know that the notion that indulgence is a general need inherent in the state of manhood, creates in the growing boy an almost irresistible impulse to experience it and state recognition and regulation of prostitution would unquestionably tend to confirm an already common opinion that secret indulgence is an imperative need.¹

The principal argument in favor of the regulation of prostitution is that it decreases the amount of venereal disease in the community, by reason of the frequent medical examinations to which the prostitutes are subjected. This claim, however, is not well founded in fact. In the first place, minors cannot ordinarily be subjected to sanitary control, because in every country there is a strong moral sentiment against such registration. And yet the greater number of prostitutes begin their sinful careers while minors. In the second place, there are a large number of prostitutes in every country who cannot be subjected to sanitary control. Most prostitutes begin with the hope of returning to an honorable life and are therefore unwilling to register themselves voluntarily. Although the police in countries having a system of regulation act quite arbitrarily, they must proceed with caution. Even in Berlin, where the police register compulsorily every woman who is affected with venereal disease and has no visible means of support, the great majority of the prostitutes cannot be discovered. It must be remembered too that the proof of prostitution required by the German police is less than that required by any other police organization, and is by no means absolute proof.

Nor is it true that the older registered prostitute is a more dangerous woman from the sanitary point of view

¹Committee of Fifteen, *The Social Evil*, 85.

than the younger unregistered prostitute, on the theory that the older woman is more notoriously debauched. Syphilis is so common among the patrons of prostitution that according to the aphorism of Dr. Le Pileur,—“De-flowered at sixteen, prostitute at seventeen, syphilitic at eighteen”—most prostitutes become infected during the first two years of their career and it is only during these first two or three years that syphilis is normally transmissible. During these years most prostitutes are not registered.¹

Furthermore, even the prostitutes who are registered and regularly examined, may transmit venereal disease in several ways. In the first place, the medical examination of prostitutes is made so hastily that frequently the prostitutes are given certificates of good health when they are in fact infected, and it is impracticable to make the examinations more thorough without increasing the expense of conducting the examinations so much that the taxpayers would not permit the examinations to be continued at all. In the second place, a prostitute may be infected immediately after she has been examined and continue to infect her patrons for a week or two weeks, until she is again examined. This defect also cannot be remedied except by more frequent examinations, which would not only increase the cost but would also deter more women from registering voluntarily.

Thirdly, the treatment accorded to diseased prostitutes is not sufficiently prolonged to cure these diseases. Both syphilis and gonorrhœa require a long course of treatment for their cure and the expense of maintaining prostitutes for the period of time necessary for their complete cure is too large to be borne by the public. And finally, the gravest defect of any system of sanitary regulation is that regulation and the general belief in the good health of the prostitutes will always increase the patronage of vice and not only neutralize to a certain extent whatever

¹ Committee of Fifteen, *The Social Evil*, 99.

sanitary benefit is derived from the regulation of prostitution, but will also increase the possibility of the prostitutes becoming quickly infected by their male patrons. It is impossible to subject the male patrons of the prostitute to a medical examination except in the brothels and any attempt to examine them there would result in the closing of the brothels and the substitution of the more dangerous clandestine prostitution. All of these statements regarding the ineffectiveness of sanitary control are based largely upon *a priori* reasoning, since there are no trustworthy statistics on the subject available.¹

We have explained at some length the physical and moral effects of prostitution and the ineffectiveness of regulation from the sanitary point of view. Before considering in detail the highly unsatisfactory character of the American *laissez-faire* doctrine, which has done more than any other single factor to corrupt our American police forces, it will be necessary to show the impracticability of any system of state regulation in America from the point of view of constitutional law. Every system of sanitary regulation requires for its success the periodical examination of the prostitute and her detention in a hospital until she is cured. If the prostitute submits voluntarily to such examination and detention, no legal question will arise, but a large majority will never submit voluntarily, and the system can, therefore, not be effective, unless the authorities can compel them to submit against their wishes.

Such a deprivation of personal liberty can be defended on one of four theories, of which probably none is legal from the American point of view. It is certain that under our usual constitutional provisions regarding the sanctity of personal liberty the legislature would have no authority to create a special status for prostitutes and compel them to submit to examinations as an incident of such status. It is also doubtful whether it could prescribe such examina-

¹ Conference Internationale, Brussels, 1899, *Compte Rendu*, Question I, 29.

tions as a condition precedent to their engaging in a special occupation, viz., prostitution, as the legislature might prescribe that all railway engineers submit to a physical examination of their eyesight. And even if the legislature could prescribe such an examination, it is difficult to see how they could imprison a prostitute who was found to be diseased. Prostitutes cannot be forcibly imprisoned on the ground that they are spreading a dangerous communicable disease, since that would be class legislation, and since others who have the same disease and particularly men are not similarly treated. Finally, if prostitution is made a crime and a discretion is vested in the police officers and police justices to liberate those found to be free from disease and imprison those found to be diseased, it is probable that this discretion will be abused as seriously, if not more seriously, than is the discretion which is at present vested in police officers.

Before considering the extra-legal police regulation of prostitution in the United States it is necessary to understand clearly the legal status of the prostitute in this country. An early American case¹ decided that a prostitute can be committed for prostitution, not on the theory that she is guilty of any criminal offense, but merely as a police measure justified by reason of the fact that such action is for her benefit,—that it is a sort of guarantee to protect the community from contamination and that her dissolute habits are leading her to indigence, so that she may be treated as an indigent, although she has not yet received any alms. This decision is certainly unsound in every respect, and was lately overruled as being inconsistent with the Fourteenth Amendment.²

At the present day the prostitute can be arrested only as a criminal vagrant. To constitute the crime of vagrancy three circumstances must co-exist,—absence of lawful means of support, a neglect to seek employment, and an

¹Adeline G. Nott's Case, 11 Me., 208.

²Portland vs. Bangor, 65 Me., 120.

offensive public exhibition of such condition. The lack of a lawful means of support imposes the obligation to work, since otherwise the burden of support will fall upon the public, and a neglect to seek employment is essential, since otherwise mere misfortune might make an individual a criminal vagrant. The third element of public exhibition of such vagrant condition, though perhaps not essential, adds to the public danger the elements of disorder and offensiveness. If a woman is proved to be a prostitute, the jury may infer vagrancy from the fact that she has no lawful means of support and may find her guilty of the crime of vagrancy.¹ The law of vagrancy furnishes the fundamental legal basis for the police supervision over prostitutes and particularly over street-walking prostitutes in the United States.

The brothel furnishes the second legal basis for the police supervision over prostitutes in the United States. Houses of prostitution are nuisances at common law, no matter how quietly they are kept.² In this respect they are like gambling houses and differ from places where liquor is sold, which become disorderly only from the manner in which they are kept. Not only is a house of prostitution a common-law nuisance but the keeping of such a house is generally a criminal offense.³ The owner of a house cannot, however, be made liable for renting a house to a prostitute, unless such owner had reason to believe that the prostitute would use the place for illicit purposes, since an absolute prohibition against letting to prostitutes would render them homeless and deprive them of shelter.⁴ Not only may the keeper of a house of ill-fame be fined or imprisoned as a criminal, but the house may be closed and suppressed as a nuisance. It cannot, however, be destroyed, since it is capable of serving a lawful purpose.⁵

¹ *Commonwealth vs. Doherty*, 137 Mass., 245.

² Bishop, *New Criminal Law*, i, § 1087.

³ New York Penal Code, § 322.

⁴ *Millikan vs. Weatherford*, 54 Tex., 388.

⁵ *Ely vs. Niagara County Supervisors*, 36 N. Y., 297.

The legal aspects of the segregation of vice also deserve some mention. The power to assign noxious establishments, such as houses of ill-fame, to a designated district is derived from the power to exclude them entirely and the power to regulate them. The leading case on the subject of segregation in the United States is the case of *L'Hote vs. New Orleans*.¹ In this case the city of New Orleans had passed an ordinance prohibiting lewd women from living anywhere outside of two particularly described districts, but adding that this should not be held to authorize such women to live in any portion of the city. A property-owner of the district from which the prostitutes were not excluded sued on the ground that the ordinance injured his property and violated the Constitution of the United States, by discriminating against some citizens. The court in upholding the constitutionality of the ordinance held that where there is power to prescribe a limitation there must of necessity be discrimination, that if the plaintiff suffers by the establishment of this particular district, others will suffer by the establishment of any other district, and that the reasonableness of the limits is a matter for legislative consideration, which cannot become the basis of a judicial action. This argument of the court is, however, a dictum and not binding.

In the case before the court the owners of the property were not deprived of any remedy, civil, or criminal, which they had before the passage of the ordinance, since the ordinance expressly disclaimed that it constituted a license. Since a house of prostitution is a nuisance at common-law and since a common-law nuisance cannot be legalized where it violates private rights, except by the exercise of the right of eminent domain, an ordinance withdrawing merely the liability to criminal prosecution might be unobjectionable. As far as private rights are concerned, the owners of property affected by the establishment of such a house of prostitution in the vicinity of their property could still sue for an

¹ 51 La. Ann., 93; 177 U. S., 587.

injunction and for damages, provided that the district in which the disorderly houses are permitted to exist by the ordinance was not previous to the enactment of such ordinance already given up to disorderly houses. In the case last referred to no injunction would be issued and the damages allowed would be only nominal, since the ordinance would not have caused any private injury.¹

There are several legal methods of repressing prostitution which fall short of repressing the act itself. These regulations may be directed either against all women or only against prostitutes. In the United States women are quite generally forbidden to serve as waitresses in saloons or dance halls.² Similarly ordinances, known as anti-wine-room ordinances, forbidding the serving of liquor in private apartments in saloons or restaurants, to less than four persons, unless they are all of the same sex, have been enacted in many cities.³ Measures which are directed against prostitutes only are more difficult of enforcement, because it is frequently exceedingly difficult to prove the fact that a given woman is a prostitute and even after the fact has been successfully proved, a further legal difficulty remains, since such ordinances might be construed as legalizing the status of the prostitute.

An ordinance forbidding prostitutes from being on the street between seven in the evening and four in the morning would probably be free from this objection.⁴ An ordinance requiring prostitutes to live in a certain district or to submit to a physical examination would present this legal difficulty very strongly. It is extremely doubtful whether the health authorities can subject prostitutes to a strict medical control for the prevention of contagious diseases. Our courts have held almost uniformly that an interference with the liberty of the person and body under the

¹ Freund, *Police Power*, § 179.

² New York Police Manual, 1908, Rule 45, Par. 41.

³ *State vs. Barge*, 82 Minn., 256.

⁴ *Dunn vs. Commonwealth*, 20 Ky. Law. Rep., 1649.

sanitary power is justified only in cases of imminent danger, as in epidemic diseases, and the danger of contagion from prostitutes is certainly not of that extremely dangerous character. While it is undoubtedly true that the prevention of the spread of venereal disease falls within the province of the police power, yet the exercise of the power in this case would require such specific regulations as would practically amount to the legal recognition of prostitution, which our legislative policy would not permit.

In addition to the methods of legal control which we have described, prostitution is in some cities of the United States subject to two species of extra-legal control,—the levying of periodical fines upon prostitutes and the subjection of the prostitutes to periodical medical examinations. The objections to the subjection of prostitutes to a periodical medical examination may be summarized as follows: It is a degradation of American womanhood, since it discriminates between vicious women and vicious men; it is ineffectual in checking the spread of venereal disease, since the prostitute is easily infected by her uninspected patrons; it increases the amount of vice in the city, because it gives to the patrons of vice a false sense of security; and it is illegal as well as extra-legal, because it invades the sacred domain of personal liberty unwarrantably.

Though sanitary regulation forms, as we have shown, the fundamental basis of the regulation of prostitution on the continent of Europe, it is not, at the present day, legally enforced in any city of the United States. It was at one time tried in San Francisco but quickly given up. In St. Louis, there was a statute in force from 1870 to 1874, providing for the periodical physical examination and licensing of prostitutes, and the proceeds of the license fees were used for the maintenance of a hospital for venereal diseases in women. The system was abandoned, however, and the hospital converted into a general hospital for women. In San Antonio, Texas, houses of prostitution were licensed and prostitutes physically examined for ten months during

TABLE 8. POLICE CONTROL OF SOCIAL EVIL IN AMERICA.

CITIES.	LIQUOR HOURS.			SUNDAY HOURS.	LIQUOR LICENSE.			GAMB-LING.	VICE.			POLICE CONTROL.				
	Saloons Open.	Saloons Close.	State Excise Law.		No-License City.	Not Specified.	Owner of House.		Proprietor.	Not Specified.	Segregated.	Not Specified.	Precinct Commanders.	Headquarters Squad.	Chief.	Detective Bureau.	Not Specified.
1. Albany, N. Y.	5	1														
2. Baltimore, Md.	5	12														
3. Binghamton, N. Y.	4	1														
4. Bridgeport, Conn.	5	12														
5. Buffalo, N. Y.			X													
6. Cambridge, Mass.	6	11														
7. Camden, N. J.	All	Day														
8. Charleston, S. Car.			X											X		
9. Chattanooga, Tenn.	5	10			Same											
10. Chicago, Ill.	5	1														
11. Cincinnati, O.			X													
12. Cleveland, O.	5	12														
13. Cohoes, N. Y.			X													
14. Columbus, O.	5	12														
15. Covington, Ky.	12	12														
16. Dallas, Tex.	All	Day														
17. Davenport, Ia.	5	12														
18. Dayton, O.	5	12														
19. Denver, Colo.	12	12														
20. Des Moines, Ia.	6	10														
21. Detroit, Mich.	6	11½														
1. Duluth, Minn.	11	11														
2. Elizabeth, N. J.	5	Day														
3. Elmira, N. Y.	All	Day														
4. Elmira, N. Y.	5	12														
5. Erie, Pa.	5	12														
6. Fall River, Mass.	6	11														
7. Fort Wayne, Ind.	5	11														
8. Grand Rapids, Mich.	6	11														
9. Harrisburg, Pa.	All	Day														
10. Hartford, Conn.	5	12														
11. Haverhill, Mass.	6	11														
12. Holyoke, Mass.	6	11														
13. Indianapolis, Ind.	5	11														

1889 but the system also proved impracticable from an American point of view.¹ An ordinance of Denver provides that the health commissioner may examine prostitutes, but this power has never been used.² In Cincinnati alone are prostitutes subjected to a periodical physical examination and in that city the examinations are conducted without authority of law. The extra-legal supervision of prostitutes in Cincinnati is accomplished by the co-operation of the police department and the health department, whereby all diseased prostitutes are sent to the hospital by the health authorities until cured, and all prostitutes having certificates of health from the health department are unmolested by the police authorities. Music and liquor-selling is allowed in the brothels and in fact the city does absolutely nothing to check the spread of the social evil, confining its efforts entirely to removing as far as possible the inherent dangers to which the patrons of this vice are subject.

The whole procedure in Cincinnati seems to be carried out in a subterranean fashion contrary to the letter and the spirit of the law. It gives the police a good control over the disorderly women, who are frequently criminals also or at least the consorts of criminals, but a violation of the law by the public authorities is never to be approved and it is particularly unfortunate, if the police authorities who possess such large powers affecting the liberty of the citizens, engage in notoriously illegal practices.³ A distinctly modern regulation from the American point of view is the recent statute passed in Michigan⁴ which provides that no person affected with syphilis or gonorrhœa shall be capable of contracting marriage. This is certainly a step in the right direction,—physically, morally, and from the point of view of sound civic development.

¹ Dyer, *New Orleans Medical and Surgical Journal*, Dec., 1899.

² Denver Ordinance No. 44 of 1893, § 153.

³ Wilcox, *American City*, 301; *Bulletin, League of American Municipalities*, Nov., 1903, p. 68.

⁴ *Michigan Laws*, 1899, Chap. 247.

The perversion of a statutory authority to prohibit an immoral act into an administrative authority to license it, is repugnant as well to our sense of morality as to our sense of legality and the fitness of things. Prostitutes and particularly street-walking prostitutes are nuisances under the American law, and there is given to the police authorities ample power to suppress them both as prostitutes and as vagrants. But the prevailing public sentiment in five of the seventy-five largest American cities—Des Moines, Iowa; Duluth, Minnesota; Peoria, Illinois; St. Paul, Minnesota; and Tacoma, Washington,—yielding to the weakness of human nature, confused in its attitude toward personal liberty, and often influenced by a greed of gain, demands a lax enforcement of the laws against vice. These cities do not dare to pass ordinances permitting prostitution to exist, largely because the power of municipal corporations is defined by the State Constitution and State legislation, and the rural inhabitants who have higher ideas of morality would not permit such legislation.

Accordingly they tolerate prostitution by an extra-legal system of license. Prostitutes and keepers of brothels are arrested at regular intervals, monthly or bi-monthly, and taken to court where they are fined fifty dollars or one hundred dollars. Prostitution being a crime under the state statutes and the municipal ordinances, the police have the power to arrest and fine for the purpose of suppressing the crime and punishing the offenders. The police prostitute this power and arrest, not to suppress the evil but to regulate it, as it is said. Such fining is in practice not a regulation, at all, but an illegal form of taxation. If the city derives a revenue from the violation of these social statutes, why do the citizens complain so bitterly when the police officers also exact a revenue from these unfortunate women? The action of the city furnishes an object-lesson to the greedy police official, who ought not to be blamed too severely, if he follows in the footsteps of his municipal superiors. A city which has authority

only to suppress prostitution has no more right to collect license fees in the form of periodical fines for the purpose of permitting prostitution to exist in the city than the police officers who collect blackmail for the same purpose, and the action of the city in collecting such fines is much more reprehensible, because it represents the action of mature, well-educated men, while the collection of blackmail often represents the action of men who do not know any better.

Furthermore, it should be stated that it is to the credit of many American police officials that they will not accept blackmail from these poor, unfortunate women, when they will accept blackmail from gamblers and from keepers of liquor saloons.¹ In other words, some of the individual police officers have a higher moral standard than some of our American municipalities. Generally speaking, however, the corrupt relations of the police with vice, particularly in our larger American cities, are notorious. In many of these cities there can be no doubt that the exploitation of vice is carefully syndicated. Every brothel must pay a fixed sum each month to the captain of the police precinct in which it is situated, just as it pays a periodical fine monthly or bi-monthly to the municipal authorities. The blackmail extorted by the police captain is passed on by him after he has retained his commission to his superior police officer who in turn takes his commission and passes it on until it reaches the head of the police force and is by him transmitted to the political leader who stands at the head of the vice syndicate.

No provision is made in this systematic collection of blackmail from the keepers of the brothels for the police patrolman, and he, accordingly, must derive his revenue from the "cruisers" or prostitutes who do the street-walking. These unfortunates are obliged to pay to the patrolman on whose post they walk a fixed amount each evening, for the privilege of accosting pedestrians, and a failure to comply with this request will result in their summary arrest. The

¹ *Harper's Weekly*, April, 1907.

evil result of these police conditions can hardly be overestimated. It saps the moral tone of the entire police force and leads to a wholesale denunciation of the individual members of the force, which is not always merited.

The true solution of the police problem connected with the existence of prostitution is not as difficult as might be inferred from our present unsatisfactory conditions in America. It lies in the supervision of all outward manifestations of vice, the education of the public to a higher moral tone, and the ignoring of all secret practices of a vicious character. The street-walking of prostitutes and the soliciting from windows should be sternly repressed by the police. In the regulated cities of Europe a man can freely accost any woman whom he meets unattended on the streets at night, because he is justified in presuming that she is a prostitute. We have advanced beyond the Europeans in this respect, since we accord to our women the privilege of walking on the streets unattended at night, but this has resulted in the soliciting of the men by the prostitutes in America, instead of the soliciting of the prostitutes by the men. Such soliciting by prostitutes cannot exist without the connivance of the patrolman on post, and such connivance must be restrained.

The education of the public to a higher moral tone, while not directly connected with the police problem of prostitution, deserves mention, because without it the police problem cannot be solved permanently. The conditions in the tenement houses which lead to sexual immorality should be improved, healthy amusement should be furnished to the poor people of the city, either by public provision or private charity, or through theatrical managers, to supplement and, if possible, supplant the attractions of the low dance halls and the sensational theatres, which serve only to stimulate sexuality and debase the taste; and the material conditions of the wage-earning classes and especially the young wage-earning women should receive attention, so that at no distant time in the future it will

not be necessary to make the sad and humiliating admission that in numerous instances not passion or greedy inclination, but actual physical want impels young women along the road to ruin.

With the stern suppression of all the outward manifestations of the social evil, the gradual uplifting of the human race by means of moral education and the bettering of the condition of the poor, the problem of prostitution will be solved. As far as the organized police force of the city is concerned, not prostitution itself, provided it is withdrawn from the public eye so as to be noticeable only to those who deliberately go in search of it, should be punishable, but all such manifestations of it as properly belong under the head of public nuisances. The police must be held to a strict accountability, if they fail to check the street-walking of the prostitutes or the soliciting from windows, or prostitution in the tenement houses of the poor. With the secret manifestations of vice, on the other hand, the organized police force should have nothing to do.

Whether it is desirable in the present state of the moral evolution of the race to attempt to extirpate prostitution and the brothel is a question concerning which the best authorities are by no means united in opinion. Even if the brothels should be closed, this is not a fit work for the police. The duty of the police is to maintain the public order in the city, and to protect the lives and the property of its citizens. This is accomplished, as regards prostitution, when every respectable man can go about his business and his legitimate pleasures in the city without being troubled by prostitutes. If there are purists or extremists in the city who believe that prostitution should be and can be extirpated, let them form an incorporated society for the suppression of prostitution and let them with their own paid agents secure evidence, which will justify the courts in closing them.

It is doubtful whether any such society will ever be entirely successful but be that as it may, it is essential to the

well being of the American police organizations that they be relieved of the responsibility and the dangers incident to the present conditions, whereby they are required by law to attempt to accomplish what many eminent specialists believe to be impossible. Let the police confine their efforts to the suppression of all outward manifestations of vice and let secret manifestations of the social evil be reached either by the slow developing process of education or by special societies formed for the suppression of this form of vice. In this way alone can the police force be relieved of its present disagreeable and irksome duties and have removed the stigma which is in most cases undeserved and which in all cases leads to a general contempt of the guardians of our peace, of which the professional criminal quickly and eagerly takes advantage.

It has frequently been suggested that the regulation of prostitution should be placed in the hands of a special body of morals police in America, as it is placed in the hands of a special morals police force in a number of European cities. This suggestion contains some elements of merit. It is essential that the power which the regular police organizations in America at present possess over these unfortunate women should be curtailed, and anything which will tend to accomplish this result should be given careful consideration. One careful student of the subject has said:

I do not know whether a special morals police force will control the situation in a more satisfactory manner than the regular police at the present day, but I do know that the establishment of such a morals police will greatly benefit and improve the regular police force.

If choice must be made between our present very unsatisfactory police conditions and the establishment of a special morals police, the latter is certainly to be preferred. It might be that such a special police force would be so constantly under the public suspicion that less blackmail could be levied by its members than by the regular police,

and the establishment of such a police force would certainly relieve the regular police of some very disagreeable and dangerous duties, for the performance of which experience has shown them to be entirely unfitted. It would probably be preferable, however, to have the whole subject of the regulation of prostitution in our American cities except the suppression of the outward manifestations of vice which constitute breaches of the peace, committed to private organizations, which could be sued for their wrongful acts and which would be under the control of ministers and sociological students rather than under the control of municipal officers and politicians.

SECTION II. GAMBLING AND THE LIQUOR TRAFFIC

Gambling—Professional Gambling—Repression—Solution of the Problem—Liquor Problem—Sunday Closing—Remedy.

The problems of police administration which are connected with the social phenomenon of gambling are so similar to those connected with the phenomenon of the social evil that they can be adequately treated in a few words. It is necessary to indicate in the first place how gambling injures the community. Whether carried on in the saloon, the church, the fair, the gambling house, the race track, the pool-room, or the football gridiron, it is a danger to the community, because it excites the play instinct in a fundamentally dishonest manner. The gambler always tries to get something for nothing,—to get control of the fruits of another man's labor without performing any service in return. It is the competitive spirit so far degenerated as to make co-operation and good fellowship almost impossible. Gambling is essentially a city vice, because in the city people have more leisure and less opportunity for outdoor sports than in the country. Parlor games which are mostly gambling devices are much used in the city, because they are excellent time-killers. Personal hospitality and real social intercourse require thought on the part of the host or hostess and frequently real intellectual ability

in the invention of pastimes and their successful execution. Gambling games require no such trouble or ability.

Games of chance develop two habits of mind which are bad for the community. In the first place, gambling develops the habit of depending upon luck for success. Success in gambling depends to a large extent upon drawing a good hand, and the gambler thinks that the same means will secure for him success in the larger struggle of life. Moreover, though games of chance develop a certain kind of skill, they develop a habit of mind which prepares a man to keep his own counsel and quickly to take advantage of any negligence or mistake on the part of his opponent. In other words, the mental skill is competitive in the strictest sense of that word. It is not skill in producing things but in taking advantage of one's opponents. And finally, gambling is particularly prevalent in cities, because the inhabitant of the city is so largely cut off from actual participation in the industrial process. The industrial process in the cities is so complex that it is difficult for a man to know whether he is a producer or a parasite. This confusion removes the moral check from the competitive process, since a man who does not work with his hands is prone to measure his success solely by the amount of his income. Furthermore, the ownership of capital is in the city largely divorced from responsibility for its use. The farmer can use his surplus funds directly in the improvement of his farm but the urban resident must place them in a savings bank or invest them in stocks and bonds, over which he has little or no direct control.¹

Great as are the moral evils connected with the gambling which is an incident of social intercourse and the economic conditions in urban communities, it should be borne in mind that these evils are greatly increased when the gambling is that of the professional gamblers. All gambling is, of course, intrinsically dishonest. To attempt to get another man's money without working for it and without

¹ Wilcox, *The American City*, 144.

giving any return for it, must be considered dishonest, and yet, if it be permissible to speak of degrees of dishonesty, it is certainly more dishonest to procure that money by pretending to leave the disposition of its ownership to the laws of chance, when in fact the operation of those laws is corruptly influenced by one of the gamblers without the knowledge or consent of the others.

Professional gambling is distinguished from ordinary gambling, not only by the use of fraudulent means but also by the fact that the gambler uses gambling, not as a means of enjoying his leisure, but as a means of earning his livelihood. Furthermore, the statutes of many of our states make a distinction between private gambling and public gambling. Thus, it is lawful in the State of New York to invite a party of friends to enjoy a game of roulette at one's house, while it would be unlawful to run such a game publicly for all who might wish to join in playing it. This distinction between public gambling and private gambling in the actual operation of the law generally coincides with the distinction between social gambling and professional gambling, and yet it is easily apparent that the distinctions are not absolutely parallel. A private gambler may be dishonest, even though his games are not open to the public; a public gambler may be honest, though his games are open to the public.

The impracticability of abolishing a vice by mere repressive legislation is now recognized by practically all students of public affairs. A vice, which is deeply ingrained in the natural instincts of a large proportion of the human race, cannot be abolished by placing upon the statute books a law which makes indulgence in that vice a statutory crime. And yet that is exactly what our American commonwealths and municipalities are attempting to do at the present day. The better class of the community, recognizing the fact that the existence of gambling is incompatible with good citizenship, insists upon the enactment of laws which make public gambling of any kind a crime, and

then public opinion favors an extremely lax enforcement of these statutes. The situation in this regard is almost the same as that which we have described at length in the case of prostitution and the practical results are strikingly similar. Since the people want the anti-gambling laws enforced with great leniency, the police are quick to seize the opportunity to sell the privilege of violating the laws for a money consideration.

The anti-gambling laws furnish even a richer field for police corruption than do the laws against prostitution. In the first place, it should be stated to the credit of American police officers that there are many police officers who will not take blackmail from the poor, unfortunate prostitutes. Their manhood rebels at the thought of accepting such tainted money. These same officers, however, feel no compunction about accepting hush money from gamblers. The professional gambler usually obtains his money easily by dishonest practices in a dishonest occupation, and the police officer cannot see why he who permits him to gain money in this way by his official nonfeasance, should not receive a share of it. Moreover the gambler makes his money more quickly and more easily than the prostitute and is, therefore, willing to give up a share of it more readily to the police.

As in the case of prostitution, the true solution of the problem lies in the correct differentiation between vice and crime. From an academic consideration of the subject, it is apparent that a vice such as prostitution or gambling becomes a crime only when it becomes a public nuisance. A public manifestation of the gambling spirit in any form or manner should be rigidly suppressed by the police. Whether the gambling spirit manifests itself in a lottery, in betting on race horses, or in a public indulgence in games of chance, it should be repressed sternly. But the term "public manifestation" should be restricted to such a manifestation of gambling as is reasonably likely to bring the subject of gambling to the attention of those who do

not go in search of it and thus to arouse the gambling spirit in those who have not yet developed it. The private practice of gambling cannot properly be made a crime, because it is not a public nuisance. We know from experience that statutes which make the private practice of gambling a crime cannot be enforced, even with due diligence. Furthermore, the presence of unenforced statutes on the statute books leads to contempt for the law and the corruption of the police force. The private indulgence in gambling can be suppressed only by educational means and should not be interfered with by the police. If the municipalities would provide for the healthy, outdoor, physical recreation of their citizens the prevalence of gambling would be certain to decrease.

The saloon may be fundamentally distinguished from the brothel and the gambling house by reason of the fact that liquor selling is a perfectly legitimate occupation under the law, while the keeping of a gambling house or a brothel is always and under all circumstances illegal. The brothel and the gambling house are nuisances *per se* while the liquor saloon becomes a nuisance only if it is improperly conducted. In so far as the saloon causes drunkenness it is certainly to be condemned, and American public opinion generally regards saloons with suspicion because they sometimes breed and tolerate this vice. This attitude of the public mind has reacted upon the business itself in America and has made the saloon less respectable than it is in some of the countries of continental Europe. The saloon, which is in every country a powerful social institution, is more powerful in the United States, because it is always mixed up with city politics in a very intimate manner. The strength of the saloon depends primarily upon the popular demand for intoxicating liquor, but there are many contributory elements of strength which are often lost sight of.

The saloon is the social center for the man who has leisure. Unless a man is so exceptional as to be satisfied to spend his leisure in a crowded reading room in which

the air is vile and conversation is forbidden, or unless he is willing to sit in the crowded city parks, he must spend his leisure in saloons, simply because he is in the way at home, where he cannot do anything except help keep house. The saloon is in more than name the poor man's club, and the fact that it is always kept bright and cheerful, with comfortable seats, facilities for games, and frequently music, adds to its attractiveness.¹ The second source of strength of the saloon is the fact that it is a public comfort station, where any man or boy may have toilet facilities at any hour of the day or night. To the shame of American cities it must be said that they have almost everywhere failed to make any provision whatever or at most grossly inadequate provision, for the common decencies and conveniences of life. The saloon has been prompt to take advantage of this want and to fill it. Although free toilet conveniences are furnished to the public in railway depots, hotels, and office buildings, these buildings are not always conveniently situated, while a saloon is found on almost every corner.

The policeman, who is by the regulations of the police department expressly prohibited from entering a saloon except in the discharge of public business, finds it necessary to break this regulation almost daily, because of physical necessity. The third source of strength of the saloon is the fact that it is a place where a person may slake his legitimate thirst. The water supply of many cities is taken from rivers which are dangerously polluted by sewerage; in other cities the water, though not polluted, is muddy in appearance; and those cities which have comparatively pure water frequently do not establish a sufficient number of public drinking fountains. The saloon thus becomes the only place where a man can slake his legitimate thirst with convenience and with safety.²

The liquor problem in American cities is further com-

¹ Calkins, *Substitute for the Saloon*, chap. i.

² Wilcox, *American City*, 149.

plicated by the cosmopolitan character of our urban population and particularly by the presence of a large number of foreigners. The American people do not think that a man should spend his leisure, and particularly his Sunday leisure, in a saloon, because the saloon is thought of as the natural center of dissipation, disorder, and vice, while the Germans associate the saloon with legitimate Sunday recreation and beer drinking. When, as in New York, the State statute requires the saloons to be closed all day on Sunday, this is a police regulation which the Germans cannot understand or reconcile with our boasted freedom in this country. The result is that this single piece of restrictive legislation has frequently been the means of corrupting the entire police force. We have already referred to the fact that many police officers have a natural repugnance to collecting blackmail from houses of prostitution, and it is probable that many more would not begin to collect blackmail from gambling houses, were it not for the fact that they are personally of the opinion that the saloons ought to be allowed to be open on Sunday. Thus in accepting money for permitting the saloons to violate the Sunday closing law, they take their first step in the levying of blackmail. It is undoubtedly true that the brothels and the gambling dens would find it much more difficult to secure police protection, were it not for the fact that they ally themselves with the liquor saloons, which are backed not only by immense vested interests but also by considerable popular sympathy.

The solution of the police problem connected with the sale of intoxicating liquors is similar to the solution which we have suggested in the case of prostitution and in the case of gambling. A policy of repression alone will inevitably fail; the true remedy lies in the education of the people to a higher individual and social standard. But since such a campaign of education is of slow growth and development, all public manifestations of the vice must be repressed by the police. Men who are found drunk in

public places should be arrested, and for a second or a subsequent offense they should be imprisoned as well as fined. It might be feasible for employers to provide for the medical treatment of their inebriate employees. This is especially true of such quasi-military organizations as the police department, whose members are often addicted to the use of alcoholic liquors to excess and whose members can be compelled to submit to such medical treatment as may be prescribed by the department surgeons. Statutes attaching human penalties to the violation of natural laws are not inconsistent with democracy. The inconsistency lies in that class of puritanical legislation which attempts to regulate man's conduct in accordance with some particular religious tenet or philosophical dogma, which the people themselves do not support with practical unanimity. Until American cities begin properly to regulate the police problems connected with the social evil, gambling, and liquor selling, they must not complain about police corruption. Such police corruption is inevitable as long as the present hypocritical treatment of these problems continues.¹

¹ Wilcox, *American City*, 156.

CHAPTER IX

POLICE PROBLEMS

"Cogita et Age"

SECTION I. STATE CONSTABULARY

Unsatisfactory Condition of Police—Proposed State Police Department—Supervision of City Police—Constitutional Questions—In New York—Summary.

ONE of the most important problems of police administration in the United States at the present day is the advisability of the establishment of a State constabulary. It seems to be the consensus of opinion among students of public affairs in America that our police administration is not perfectly efficient or satisfactory. The urban police forces, though well-organized, sufficient in numbers, and fully efficient in preserving the peace from day to day, are corrupted by the statutes which regulate the leisure of the citizen in a manner which is repugnant to a majority of the inhabitants of the municipalities. In the rural districts, on the other hand, the police forces are poorly organized, insufficient in numbers, not even reasonably well-equipped for the maintenance of order in normal times, and absolutely unable to cope with serious disturbances such as at the present day so frequently accompany labor disputes.

The facilities in America for the investigation of crimes are notoriously inadequate. Detective police officers are, it is true, hampered by our constitutional immunities protecting the rights of individual liberty, but in addition

it must be confessed that our detective forces are poorly organized and quite inefficient. In the municipalities the detectives are generally selected without being subjected to any test of their detective ability and are frequently retained in the detective bureau, the administrative organization of which does not tend to promote the efficiency of the individual members of the force. In the rural districts there are no detectives worthy of that name, and rural crimes usually remain unsolved mysteries, unless the persons affected thereby are able to pay for the services of a private detective.

The unsatisfactory condition of police administration in the United States does not, however, furnish a valid argument for the establishment of a state constabulary, which shall police both the cities and the rural districts of the state. If it is said that the municipal police do not properly enforce state statutes regulating the leisure of the citizens, this is due primarily to the fact that a majority of the inhabitants of the cities do not favor such laws and their enforcement by a state police department might be oppressive. And if it is said that corrupt local politics tend to lower the efficiency of the urban police, we have no assurance that corrupt state politics will not lessen the efficiency of a state constabulary. The police function is the most important function of the government, and if this function is taken away, the city has practically lost all power of self-government.

It is even more difficult to uphold in principle the metropolitan police forces, which have been established by the governments of some of our American commonwealths in specific cities. These metropolitan police forces are state police forces, operating only in a single city. The establishment of such a metropolitan police force is in many cases special legislation for purely partisan purposes. If a uniform state constabulary is attacked on the ground that it violates the principle of home rule, a metropolitan police is open to even greater criticism, since it not only

violates the principle of home rule but also increases only slightly the efficiency of the police. The state political machine in our American cities is not very different from the city political machine.¹

We have shown that the present police conditions both in the cities and in the rural districts of the United States are not thoroughly satisfactory and that neither the state constabulary system nor the metropolitan police system furnishes a solution of the police problem in America. We shall now outline a modified constabulary system which will remedy existing defects in our police system without violating the principles of our constitutional law or our political creed. The rural police forces in America, such as they are, attend to petty offenders and to the local courts quite efficiently and may very well be permitted to continue to attend to these duties. But there is no systematic patrol of the rural highways and no efficient detective service. The local authorities will probably never extend the police systems of the rural districts to remedy these defects, since from the local point of view there is little need for the patrol or the detective service and such service, if maintained separately by each town, would be very expensive.

There should therefore be established in each commonwealth a state police department in charge of a state commissioner of police and divided into three bureaus,—a bureau of rural constabulary, a bureau of criminal investigation, and a city police bureau. The bureau of rural constabulary would maintain a local police force consisting both of mounted and of dismounted policemen, whose duty it would be to maintain an efficient patrol of the rural highways now left unguarded and to assist the rural police in arresting lawbreakers. This state police force could also be employed in suppressing serious riots, which the local urban police or the local rural police might be unable to quell, either because of local sympathy or because of

¹ Sites, *Administration of Liquor Laws*, 83.

inefficient organization. The employment of a state police force for this purpose would render the occasions on which the state militia would be called into active service for the suppressing of rioting very infrequent and a state police force could suppress rioting much more efficiently than the cumbersome, dangerous, and expensive state militia.

The bureau of criminal investigation would maintain a corps of skilled detectives for the purpose of ferreting out criminals in the rural districts, where the local police are not so numerous or so skilled as in the cities, as well as for the purpose of assisting the urban police in unraveling particularly difficult criminal mysteries, whenever the urban police calls upon the state police for assistance or fails to discover a criminal within a reasonable period of time. The bureau of criminal investigation would also maintain a central bureau of criminal identification for its own use as well as for the use of the local urban and rural police officers.¹

Criticisms of the American urban police systems are for the most part not that the police forces are inadequate in organization or in numbers but that they are inefficient. Such inefficiency sometimes becomes so great as to make the maintenance of good order and the prevention of crime in the cities almost impossible, but far more frequently such inefficiency is apparent only in the fact that state laws regulating the leisure of the citizens and obnoxious to a majority of the inhabitants of the city are not enforced by the city police. We have explained in a previous chapter² that the city police should be relieved of the task of enforcing these laws. If the state deems it necessary for the protection of the morals of the people that their leisure be regulated in the manner in which it is regulated by statute in America at the present day, such regulation should be placed in the hands of other authorities than the urban police forces, which cannot be entrusted with

¹ *Harper's Weekly*, xliii, 1202.

² Cf. Chapter VIII, *supra*.

the enforcement of laws obnoxious to a majority of the citizens, without great danger of being corrupted and demoralized thereby. If the urban police forces are relieved of the regulation of the leisure of the citizens as provided by the State laws regarding liquor selling, gambling, and prostitution, we shall find them well organized and fairly efficient when the city government as a whole is honest and business-like.

But experience has taught us in America that the city government may be honest to-day and inefficient to-morrow under the control of the same political party. Even if the changes in efficiency are not quite so kaleidoscopic, they certainly frequently take place when a change in the city administration occurs, and we must in our proposed police system guard against this contingency. It would be the duty of the municipality under our proposed state police system to appoint, control, and maintain both the policemen and the officers in charge of the municipal police department. This would secure to the inhabitants of the city the home rule guaranteed to them by the spirit of our constitution and would keep in good working order the most effective check upon our city administration. For the police department is the department of the city government with which the citizens come into most intimate contact. The character of the city government as a whole is judged by the character of the police administration, and if the management of the police force is inefficient, the city administration will be condemned by the press and defeated at the polls.

Yet we must not forget that the arousing of civic interest among the citizens is a slow and laborious process, and that much injury may be done before it is possible to turn the incompetent city government out of power. The state is also vitally interested in the management of the urban police. Not only are all the more important criminal laws state laws, but the police form also the administrative force upon which our State judiciary must depend.

To protect the interest of the State, it would be the duty of the bureau of city police in our proposed state police department to inspect regularly the city police forces of the state, and if it found them to be up to the standard of efficiency set by the state department, the department would give to the city a state grant towards the cost of maintaining the police. The state police department should also be given the power to remove inefficient and corrupt police officials for any cause other than political and religious causes, without, however, possessing the power of appointing their successors. This latter provision should be insisted upon not only to protect municipal home rule, but also to prevent removals for partisan purposes.¹

The inability of the rural police to enforce the law, and the corruption and neglect of the urban police have caused considerable dissatisfaction with American police conditions, but the doctrine of home rule firmly rooted in the breast of every American has checked the hand of the state, when it has attempted to manage the police force itself. The attitude of our courts, however, has not been so favorable to the principle of home rule. Starting with the elementary proposition that the state or commonwealth in our American system is the sovereign government, the courts have deduced as a first corollary the rule that municipal corporations are merely departments of the state government.² Subject to a few limitations, which it is not necessary to mention in this connection, the legislature of the state has absolute power over the municipal corporation.

It can at its pleasure modify or destroy it. It can delegate commonwealth powers to the municipality, and it can at any time resume these powers to itself. Such a course of events marks to a greater or a lesser extent the history of our

¹ *Harper's Weekly*, xliii, 1202.

² *Barnes vs. District of Columbia*, 91 U. S., 540. *Mt. Pleasant vs. Beckwith*, 100 U. S., 514. *Williams, Treasurer, vs. Eggleston*, 170 U. S., 304. *Metropolitan Railroad vs. District of Columbia*, 132 U. S., 1.

administration of banks, insurance, railroads, liquor traffic, factories, agriculture, schools, domestic commerce, health, charities, the learned professions, etc. The administration of the police alone has generally escaped the resumption of power by the state, because the people have felt that a state administration of the police might endanger the liberty of the people. But this is a consideration of political or social expediency rather than a legal difficulty. From the point of view of the law, the same power which permits the state to establish a uniform health administration over the entire state would permit it to establish a uniform state constabulary. The police are everywhere considered agents of the state and not of the municipality.¹ A familiar manifestation of this legal principle is the fact that a municipality is not liable for the torts of its police officers, as it is liable for the torts of its waterworks officers.

Not only has the state the power to establish a uniform state constabulary for the entire state, but it also has the power, in the absence of constitutional provisions, to establish a metropolitan police for a particular city. The term metropolitan police is slightly misleading. By metropolitan police in the United States we do not mean a body of police raised and officered in one part of the state and sent to a particular city which is compelled to maintain it, as is the case in Russia, but simply a police force raised and maintained in the city, though controlled by commissioners appointed not by the city, but by the state. Such a system of state control of metropolitan police has been tried in several American states and has in the absence of some special constitutional provision been uniformly upheld by the courts, ever since the early leading case of *People ex rel. Wood vs. Draper*.² In New York the power of the state to establish a metropolitan police system is slightly

¹ *Burch vs. Hardwicke*, 30 Grattan Va., 24. *Chicago vs. Wright*, 69 Ill., 318. *Cobb vs. City of Portland*, 55 Me., 383. *Beer Co. vs. Massachusetts*, 97 U. S., 25.

² 15 N. Y., 532.



hampered by a constitutional provision¹ that all city, town, and village officers, whose election or appointment is not provided for by the constitution, shall be elected by the electors of such cities, towns, or villages, or of some division thereof, or appointed by such an authority thereof as the legislature shall designate for that purpose.

The object of this section is to secure to the several recognized civil and political divisions of the state the right of local self-government in one important respect, and the courts will protect this right. The state legislature in New York is, therefore, unable to provide for state appointed police officers in any city or town. It can, however, create a new political division of the state by adding outlying territory to a city and can then appoint state police officers for such new district, according to the well settled principle of constitutional interpretation that these constitutional limitations apply only to offices existing at the time of the adoption of the constitution and not to offices subsequently created. But the creation of such new political divisions, the effect of which is to take the appointments to an office from the locality, will be closely scrutinized by the courts and declared unconstitutional, if the change is merely colorable for the purpose of evading the constitution. Such an act of the legislature will be upheld only if there is a public necessity for the new political division. Accordingly, a metropolitan police force for a single city clearly violates this constitutional provision; a uniform state constabulary for the entire state or a metropolitan police force for several cities grouped into one civil division would probably not offend against the letter of this constitutional provision, although it might violate its spirit; state inspection of urban police,—the system which we have suggested,—would neither violate the letter nor the spirit of this constitutional provision.²

The system of state police which we have outlined in

¹ New York Constitution, Article, 10, Section 2.

² People *ex rel.* Bolton *vs.* Albertson, 55 N. Y., 50.



this chapter is not the creation of a theorist's brain. In England, the Home Secretary's Department of the central government maintains a bureau which inspects regularly the police forces of the municipalities and grants to the municipalities a sum of money to defray a portion of the expenses of the maintenance of the city police, if the city police is properly organized and efficiently administered. This system of state aid granted after inspection by the central authorities works very well and succeeds in maintaining the efficiency of the local police forces. Several states in America maintain a state detective force or criminal investigation department. The Massachusetts District Police was the first state detective police force in America and this state police force assists the local police, as well, in the maintenance of order during acute disturbances such as accompany labor disputes. The Connecticut State Police is almost exclusively a criminal investigation department, which confines its operations principally to the detection and arrest of criminal offenders and the procuring of evidence which will assist the district attorneys of the state in securing their conviction.

The most recently organized state police force is the state police department of Pennsylvania, which is principally a rural constabulary somewhat similar in organization to the French gendarmerie. The Pennsylvania State Constabulary is a mounted force, which operates chiefly in the coal region of the state and which not only maintains order in normal times, arrests dangerous criminals, and patrols the rural highways and towns which have inadequate local police protection, but assists as well the municipal police forces, whenever they call upon the state department for assistance. Thus the three elements of our proposed state police department have all been tried in actual practice and found to work well. The English Home Department stands sponsor for the state inspection of city police; the Connecticut State Police is an example of an efficient state bureau of criminal investigation; and the Pennsylvania

State Police is a representative of a rural state constabulary in an American commonwealth. If each of these three functions of the state police department work well independently there is no reason why a single department having three bureaus devoted respectively to city police inspection, criminal investigation, and rural constabulary should not go far towards remedying the present unsatisfactory police conditions in America.¹

SECTION II. SELECTION OF OFFICERS

Without Examination—Defects of Examinations—Rating of Penalties—Rating of Rewards—A Suggested Pass Examination—Efficiency Records—Assisting Candidates for Promotion—Discussion of Police Problems—Selection of Non-Professional Head of Department—Need of Expert Knowledge—Lengthening of Term—Appointment and Removal of Police Chiefs—Title, Term, and Salary of Police Chiefs—Police Promotions

The system used in the selection of superior police officers has passed through two distinct stages of development. Under the original system of selection superior police officers were selected without being subjected to any examination. In America, this stage represented the period when the policeman who had the most political influence or the most personal influence with the chief, or who was able and willing to pay the highest price for the promotion, was raised to the next higher grade. In Germany, this stage represented the period of time when the individual outside of the police department who had the highest social position was appointed a superior police officer, even though he might possess no expert knowledge of the police business. Dissatisfaction with appointments made as the result of social, personal, or political influence led to the introduction of civil-service examinations to test the potential worth of the candidate for promotion.

This merit system is the system which is now being used in the larger American cities in the making of promotions

¹ *Pennsylvania State Police Report*, 1906, p. 6.

in the police service. It is so great an improvement over the system of appointments which it has superseded that the superficial student of the subject may well believe it to be almost perfect. But there are many defects in this merit system, when applied to police promotions. In the first place, although the promotion examinations consist of three parts, which may be described as the physical examination, the mental examination, and the administrative examination, the most emphasis is placed upon the mental examination. Under this system the policeman who is the best scholar will stand at the head of the eligible list, provided that he is physically sound and has a police record which is not distinctly bad. It is at once apparent that the best scholar is not necessarily the best police officer, and this defect in the merit system of making promotions is increased by the fact that these promotion examinations are almost always competitive in the United States.

In the second place, the administrative part of the examination, which is in theory and in practice the best possible test of the candidate's potential fitness for promotion, is the most poorly developed and least carefully executed portion of the promotion examination. There is at the present day probably no police department in America which maintains a complete and accurate record of the efficiency of each policeman and police officer. The so-called efficiency records of the policemen are not efficiency records at all. They chronicle only the fines and other penalties which have been imposed upon the officer for infractions of the rules and regulations of the department, and the rewards which have been bestowed upon him in the form of honorable mentions or police medals for extraordinary services rendered by him at the risk of his life.

Such records are practically worthless when used for the purpose of determining the worth of a man as a police officer. The energetic police officer who does the most efficient work is more likely to have complaints made against

him than is the man who constantly shirks his work and shifts every responsibility upon another officer. It is possible for an easy-going policeman who, by reason of his indolence, is not only inefficient, but practically worthless as a member of the uniformed force, to go through his official career with a clean record at headquarters. In other words, a man who does not do anything wrong may also be, and not infrequently is, a man who does not do anything at all. The fact that a policeman has a clean record does not show that he is an efficient officer or the reverse, and it is unjust that in the promotion examination a large basic percentage should be granted a policeman for a clean record.

The method of rating rewards and penalties in the promotion examinations is even more unjust. In making up an officer's percentage in the administrative part of the promotion examination, deductions are made for each day's pay which the officer has forfeited as a penalty for an official delinquency. There are two objections to such deductions. In the first place, the most efficient officers may be guilty of delinquencies and, as we have already explained, the men who are guilty of the fewest delinquencies are frequently the least efficient members of the force. When a man forfeits one or more days' pay for an official misconduct, the forfeiture of pay is a sufficient punishment, and it is unjust to punish him again for the same offense when he comes up for promotion.

In the second place, this system of making deductions for penalties which have been imposed by way of administrative discipline has the effect of discouraging those policemen who most need an incentive to make them perform their duties efficiently. A man in the police department who has made mistakes, or who has committed official misdeeds, should either be discharged from the service or he should be punished and encouraged to do better next time. If instead of encouraging him to do better work, you take away or hinder his chance of promotion, which is the greatest incentive which these men possess, you create

TABLE 9. POLICE PROMOTIONS IN THE UNITED STATES

[illegible]

[illegible]

in the police department a body of inefficient men, who have no ambition to rise and who are popularly called the deadwood of the department. The citizen who sees an old man of fifty years, with a dull, listless, pitiful expression on his face, patrolling the street on a cold winter's night can alone fully appreciate what injury this deadwood does to the department. The police department needs active, energetic, ambitious men in every grade of the service, and every man who has been deprived of his ambition by seeing his chances of promotion slipping through his fingers because of official delinquencies, for which he has already been punished by the forfeiture of his pay, becomes a serious handicap to the efficiency of the department.

The system of granting additional credit in the promotion examination for rewards, which the policeman has received on account of official action taken by him at the risk of his own life, is also unjust in two respects. In the first place, when a policeman saves a life at a burning building or stops a runaway horse, he is merely performing routine police duty, for which he is paid. If a policeman refuses to rescue a person in a burning building or refuses to attempt to stop a runaway horse, he becomes subject to charges for neglect of official duty. It may be considered good policy to reward such routine official acts when accompanied by great personal danger with honorable mention or with a medal. Such rewards may stimulate the members of the force to lofty ideals, although the writer seriously doubts whether they have any such influence. However that may be, there is nobody who begrudges the policeman who has saved a life in this way the honorable mention or the medal which he receives; but, having been rewarded by the granting of such special recognition, there seems to be no good reason why he should be again rewarded for the same act when he comes up for promotion.

There is no one who will seriously maintain that a policeman who recklessly risks his life to save the life of a citizen proves by such an act that he is especially competent to

discharge the duties of a superior police officer. Experience has shown that the policemen who are most ready to risk their lives in times of emergency are often the policemen who are most inefficient in the discharge of purely routine duties from day to day, and the granting of a preference in the promotion examinations to those policemen who have received official rewards does a positive injustice to police officers who are not only just as competent, but who are, in addition, just as willing to risk their lives for the sake of their fellow-citizens, but who have never had an opportunity to do so. Police officers cannot do anything to increase their chances of obtaining these rewards. An officer may be absolutely efficient and willing and anxious to rescue women from burning buildings or stop runaway horses, but during his whole official career there may be no runaway horses coming along his post and no women imprisoned in burning buildings. It is a rank injustice to punish him for his lack of opportunity, by granting to the policeman who may be far less efficient, but who has had unusual opportunities for risking his life, a higher mark in the competitive promotion examination. And it should also be borne in mind that, when the stopping of runaway horses at personal risk increases a policeman's chances of promotion, unscrupulous policemen will not hesitate to have friends start runaway horses, so that they may have the privilege of stopping them.

The German system of selecting superior police officers from outside of the police department is not to be recommended for American police systems, because it tends to establish a caste system between the officers and the men of the department. Such a caste system robs the men of the department of all chance of promotion and deprives them of their ambition, which may be made a most valuable incentive for the securing of administrative efficiency. The promotion of policemen to superior positions as the result of the percentages received by them in civil-service examinations is the correct and proper method of selecting

superior professional police officers. The principal defect in the present promotion examinations is that they place too much emphasis upon the purely intellectual qualifications of the policeman. They test his ability as a student rather than his ability as a police officer. This defect can be remedied best by making the physical examination and the mental examination a pass examination and by elaborating the administrative examination and making it alone competitive.

Under such a system of examination no policeman could secure a place on the eligible list unless his physical condition was such as to entitle him to a passing mark in the physical examination and unless he had sufficient knowledge of the subjects of the mental examination to entitle him to a passing mark in that examination. This would render it certain that no physically disabled member of the police department is promoted and that no policeman is promoted who is too ignorant properly to discharge the duties of the superior position. As between policemen who are equally well qualified physically and mentally for promotion, the contest would be, as it properly should be, among the policemen who have done the most efficient police service. This efficiency would be rated according to a system of carefully prepared efficiency records, and the marks assigned by the civil-service examiners from an examination of these efficiency records would form the competitive element in the promotion examination. In other words, no man would be certified as eligible for promotion unless he has passed his physical and his mental promotion examination, but all men who have passed these physical and mental examinations, whatever may be their percentages in these examinations, would be equally eligible for promotion. Then the marks which these eligibles receive on their administrative examination, which would consist of an examination of their official efficiency records, would determine their relative positions on the eligible list.

For the proper execution of the system of promotion

examinations which we have outlined, it will be absolutely essential that an effective system of efficiency records be established in the police department. The system of efficiency records, to be perfectly satisfactory, must record accurately the worth of the individual policeman as a performer of routine police duties, and not merely record delinquencies. The police officer should be given credit on his efficiency record for the number of arrests he has made; for the number of convictions he has secured; for his physical condition as indicated by the number of days on which he was absent because of personal illness; for the condition of his post and the improvements which he has been able to accomplish on his post; for unsolicited letters of recommendation and approval from residents on his post; for commendation conferred upon him by his precinct commander or other immediate superior officer; for faithful attention to duty, indicated by the small number of complaints made against him by his superior officers in the department, etc. Such an efficiency record will mean something, and it will not be excessively difficult for the civil-service examiners to devise a means of marking such efficiency records on a competitive scale.

It may be objected that if letters of recommendation from residents on an officer's post will assist him in securing promotion, such letters may be obtained by the officer himself, by offers of favor or threats of disfavor, and similarly that he may make unjust arrests and secure convictions unjustly if he needs such arrests and convictions to secure promotion. There will undoubtedly be cases of such irregularities under the proposed scheme of promotion examinations, but it is believed that an efficient civil-service administration can guard against such abuses of its promotion machinery. The occupations and the character of the residents on the officer's post, who recommend him, can be carefully scrutinized and the magistrates will guard the citizens from any abuse of the power of arrest. It is impracticable in the present monograph to work out all the

details of this system of promotion examinations, but the fundamental principle is believed to be absolutely sound,—that police officers should be promoted, not because they are good students, but because they are good policemen, and that the administrative record of an officer is not only more important than his scholarship, but also that, if the officer possesses a certain minimum of physical condition and intellectual ability, his comparative worth as a police officer should be the only competitive element in the promotion examination.

Not only should the administrative examination be the only competitive element in the promotion examination, but the department ought itself to assist the officers in passing the physical and the mental promotion examinations. In other words, the department ought itself to assist the officers in becoming eligible for promotion by aiding them in passing the physical and mental examinations, which will be merely pass examinations, and not competitive examinations, under our proposed scheme. This suggestion may seem revolutionary at first inspection, but it is clearly the duty of the department and good administrative policy to inculcate in the breast of every police officer of every grade an ambition to rise. At the present day, when the mental examinations are competitive, it is manifestly impossible and improper for the department to assist the officers in passing them, but if the examinations are pass examinations the situation is changed. The officer's position on the eligible list will be determined by his administrative record as rated by the civil-service examiners and the physical and mental examinations must only be passed by him in order to be eligible for the civil-service promotion examination.

The trifling expense of maintaining a well-equipped gymnasium, with competent instructors, for the use of the officers of the police department who are preparing for the physical examination for promotion, will be more than

fully compensated for by the better physical condition of the men. Policemen must be in good physical condition in order to perform their duties efficiently. Low vitality renders them subject to inflammations, which result from exposure to the elements, and a policeman who is seriously afflicted with obesity is worse than useless as a member of the force. And what is true of the physical condition of the policemen is also true of their mental condition. Stupid policemen are not respected, and their errors cause the police force to lose much of the respect and esteem to which it ought to be entitled. A school of instruction ought to be maintained, in which the policemen can receive competent instruction in their duties and in the elements of civics and of criminal law. The lack of this knowledge handicaps the policeman on post considerably, but it handicaps the superior officer even more. The instruction which policemen secure in civil-service schools, when they prepare themselves for the promotion examinations of to-day, is generally simply "cramming." It is given to them for the single purpose of enabling them to pass the examination and, like all knowledge which is "crammed," it is forgotten even more quickly than it is acquired. Moreover, policemen cannot be expected to study carefully, when such studying must be done at times which should normally be devoted to relaxation. Every policeman of every grade ought to be given by the rules of the department one tour of duty each week in the school of instruction, where he can receive instruction in the subjects in which he will be examined in the promotion examinations, and where he can submit to the instructors the problems which arise in the line of his duty from day to day and receive information and advice.

Police officers are cast too much upon their own initiative at the present day. It is undoubtedly true that by putting a man upon his own responsibility strength of character and power of determination are developed. But the attitude of our American police departments at the present day

seems to be to let the policeman decide for himself and then to punish him severely for any error which he may make. From the policeman's point of view it frequently seems as if he will be punished if he does a thing one way and punished if he does it in another way. The most prudent course for the policeman to pursue under such circumstances is to refrain from doing the thing at all and shirk his duty. However satisfactory this course of action may be from the policeman's personal point of view, it is bad for the force as a whole and can be corrected only by furnishing to the police officers an opportunity to discuss their problems with men who are able to advise them and show them intelligently what should be done in a given state of facts.

The method of instruction in our proposed school of instruction would be, not the old-fashioned catechetical method which is used almost exclusively at the present day in the instruction of police recruits, nor the study of text-books which is used in the public schools, but a full and free discussion of hypothetical cases, which is the only proper method of instructing adults in the duties of their position. Only by such a free discussion of cases can the policemen be taught their duties, and the citizens of the community, as well as the superior officers of the department, would be surprised how much the police department would gain, not only in efficiency, but also in the esteem of the people, if its members were properly and fully instructed in their duties in every possible emergency.

The proper method of selecting the non-professional head of department presents problems which are much more difficult of solution, than are any of the problems connected with the selection of the professional officers of the department. In police administration in America, the non-professional head of department performs two functions, one of which is largely theoretical and the other thoroughly practical. The theoretical function of the non-professional head of department is the protection of the citizens of the community from the tyrannical acts of the

professional head of department. It is feared that the professional head of department would be so much imbued with the ethics and traditions of his profession that he would be unable to treat the citizens of the community with full justice. There is undoubtedly an element of truth in this fear, but it is believed that this element has been grossly exaggerated. There are superior officers in the police department who are not at all in sympathy with public affairs outside of the police department, and the condition of affairs in German cities shows us how difficult it is for the private citizen to lodge a complaint against a policeman when there is no non-professional head of department to whom he can go. But it should also be borne in mind that what the police department loses in popular control, when it is deprived of its non-professional head of department, it gains in administrative efficiency, and it merits serious consideration whether, in the case of a department which exercises such important repressive jurisdiction as the police department, administrative efficiency is not more important than popular control, especially when the courts are able and willing to protect the individual to such a large extent as they do in America.

The second and practical function of the non-professional head of department is to furnish a reward for faithful party service. Most police commissioners in America are selected, not because they are well fitted to discharge the duties of the position, but because they are good district leaders. To keep the political parties well organized, requires that the district leaders who receive no salaries, as such, be given lucrative positions in the city service, and there is no reason why the police commissionership should not be a reward for faithful political service, as well as the water commissionership or the fire commissionership.

In a small city in the last century, the head of a municipal department needed little expert or professional experience. The superintendent or other professional officer could attend to all matters requiring expert knowledge, and the

commissioner confined himself almost exclusively to the direction of the administrative policy of the department. In the larger cities, however, under the complex conditions of modern days, it is essential that the man who directs the administrative policy of the department have some expert knowledge, and the more expert knowledge he possesses the better he will be able to perform the duties of his position. It is the theory of our municipal government that the non-professional head of department is a man who possesses such a good general education that he can secure the necessary expert knowledge of his position very quickly. This was true when the science of municipal government was not well developed, but the subject of police administration or the subject of fire administration is, under modern conditions, so complicated that it takes a long time to gain even a general acquaintance with the principles of the subject. To become an expert, such as the head of any organization ought to be, takes several years, so that it is frequently the case that it takes the police commissioner his entire term of office to learn the details of the business, and then when he is an expert he is turned out of office. This condition of affairs can be remedied in one of two ways:

The first is to select only professional officers for the position of non-professional head of department. This is the rule prevailing in Germany, and it has been tried on a few occasions in the United States. When it has been tried in the United States it has generally been the case that an old, retired superior police officer was made commissioner. Such a veteran police officer undoubtedly understands the details of the police business, but his efficiency is lessened by the fact that he is too old to do active service. The police business requires young and active men, and the appointment of veteran professional officers as non-professional heads of department does not produce satisfactory results. In England and Germany, on the other hand, the non-professional head of department is selected from the ranks of the most efficient non-profes-

sional heads of departments of smaller cities. This is undoubtedly an ideal method of selecting the non-professional head of department.

A commissioner selected in this way is an expert in the field of police administration and is ambitious to perform his duties well, so that he may rise to even higher positions in his specialized field. This plan recognizes that municipal administration is a profession, just as law and medicine, and that satisfactory service as an administrative officer in one municipality is the best recommendation that a candidate for appointment in another municipality can possess. But such a system of appointment, although strongly to be recommended from a theoretical point of view, does not agree with our present system of municipal administration. The commissionerships of our large municipal departments are not to be filled by the most competent men in that particular branch of municipal administration, but must be filled by men who will assist in building up and organizing the political machinery of the city. They are rewards for political service rather than rewards for efficient service in municipal administration. And it will, therefore, probably be necessary to revert to the second proposed remedy for the unsatisfactory character of our non-professional heads of department, which is that the term of office of the non-professional officers be extended.

This remedy is by no means as satisfactory as the first from the point of view of municipal science, but it is probably the only practicable remedy which can be suggested at the present stage of the development of municipal administration in the United States. If the term of office of the police commissioner is made ten years, the city will be able to enjoy for the period of six or eight years the services of a man who is an expert in the field of police administration, provided always that the man whom you have selected for the position has the ambition and the necessary general education to enable him to qualify as an expert after becoming acquainted with the routine duties of the position.

FIG. II. TITLE, TERM, AND SALARY OF POLICE CHIEFS.

	CITY.	TITLE								TERM								SALARY	
		Commissioner of Public Safety.	Police Board.	Chief.	Superintendent.	Commissioner of Police.	City Marshal.	Inspector.	Captain.	Years.	Pleasure of Superior.	Good Behavior.	Civil Service Tenure.	Permanent.	Indefinite.	Term of Mayor.	Life.	Not Specified.	Salary.
1.	Albany, N. Y.									2									3500
2.	Baltimore, Md.	X	X							2									2500
3.	Binghamton, N. Y.			X						2							X		1200
4.	Bridgeport, Conn.				X														2000
5.	Buffalo, N. Y.		X							6	X								2500
6.	Cambridge, Mass.			X								X							2000
7.	Camden, N. J.			X															1800
8.	Charleston, S. Car.			X						1		X							1800
9.	Chattanooga, Tenn.			X															1500
10.	Chicago, Ill.				X					2		X							6000
11.	Cincinnati, O.			X								X							6000
12.	Cleveland, O.			X								X							3500
13.	Cohoes, N. Y.			X								X							1100
14.	Columbus, O.			X									X						2000
15.	Covington, Ky.			X						4									1800
16.	Dallas, Tex.			X													X		.....
17.	Davenport, Ia.			X						1									1060
18.	Dayton, O.			X								X							2500
19.	Denver, Colo.			X						4									3000
20.	Des Moines, Ia.			X						2									1400
21.	Detroit, Mich.			X		X				4									5000
22.	Duluth, Minn.			X							X								2000
23.	Elizabeth, N. J.			X													X		1650
24.	Elmira, N. Y.			X										X					1500
25.	Erie, Pa.			X											X				1500
26.	Fall River, Mass.								X							X			1000
27.	Fort Wayne, Ind.			X															1320
28.	Grand Rapids, Mich.											X							2300
29.	Harrisburg, Pa.			X						3									1200
30.	Hartford, Conn.			X							X								2000
31.	Haverhill, Mass.									4									1200
32.	Holyoke, Mass.										X								1500
33.	Indianapolis, Ind.				X					2									2200

Kansas City, Mo.....	X			X													500	X
Lawrence, Mass.....				X													2000	
Lowell, Mass.....				X				1									1700	
Lynn, Mass.....			X														2400	X
Memphis, Tenn.....			X														4000	
Milwaukee, Wis.....			X					2		X							3300	
Minneapolis, Minn....			X					3									1800	X
Mobile, Ala.....			X														1900	
Nashville, Tenn.....			X														1000	
Newark, N. J.....			X					4									1800	
New Bedford, Mass.....			X					1		X							4000	
New Orleans, La.....			X			X											1700	
Newport, R. I.....			X					1		X							2000	X
Newton, Mass.....			X														3000	
Paterson, N. J.....			X														1000	X
Peoria, Ill.....			X					2									3000	
Pittsburg, Pa.....			X					3									2000	
Portland, Me.....						X				X							1500	
Portland, Ore.....			X														2100	
Providence, R. I.....			X					3									5000	
Richmond, Va.....			X					3									None	
Saginaw, Mich.....			X										X				2600	
St. Joseph, Mo.....			X					1									2000	
St. Louis, Mo.....			X					4									1500	
St. Paul, Minn.....			X					5									2000	
San Diego, Cal.....			X					2									1900	
Savannah, Ga.....			X					2									2100	
Schenectady, N. Y.....	X																1200	
Scranton, Pa.....			X				X						X				2700	
Seattle, Wash.....			X					2									1000	X
Somerville, Mass.....			X														3000	
Springfield, Ill.....			X				X										1200	
Springfield, O.....			X					2		X							2700	
Syracuse, N. Y.....			X							X							1200	
Tacoma, Wash.....			X														2400	
Toledo, O.....			X					2		X							1000	X
Topeka, Kan.....			X														3000	
Troy, N. Y.....	X																1200	
Williamsport, Pa.....			X					3									1800	
Wilmington, Del.....			X										X				2400	X
Yonkers, N. Y.....								X										
Total.....	3	6	47	11	1	5	1	35	7	14	1	3	5	1	1	Average	2133	3

Such a system will enable the public to continue to treat these important municipal commissionerships as a reward for faithful political service and still have some chance of securing expert service after the expiration of a portion of the incumbent's term. This is essentially a compromise expedient, but it may be that the excellence of the commissioner's services during the second half of his term of office will be so great that it will impress upon the minds of the citizens the necessity of treating these important commissionerships as professional positions rather than as rewards for party service.

SECTION III. SELECTION OF POLICEMEN

Civil Service Examinations—False Statements on Application
Blanks—Leakage of Examination Questions—Personation of
Candidates—Exercise of Discretion in Appointment—Serves
no Useful Purpose.

The competitive civil service examinations to which candidates for appointment as policemen are subjected in almost every large city of the United States at the present day are probably the best method of selecting policemen which has thus far been devised. They are practical tests of the candidate's personal worth, and the men who are selected as a result of these civil service examinations are a very creditable set of candidates for appointment. Improvements in the method of selecting policemen in the United States must be sought therefore by improving the examination machinery, rather than by substituting another system of selection. To the layman it may seem peculiar to state that these competitive examinations would be an ideal method of selection if they were honestly conducted. It is humiliating to confess that in very few cities are they perfectly honestly conducted. The dishonesty practiced in these examinations may be divided into two categories—dishonesty in the application blank and dishonesty in the examination room. A candidate who intentionally makes a false statement in

answering a question on his application blank ought to be summarily rejected. The importance of the answer ought not to be the criterion of the heinousness of the offense; it is rather the fact that any man who swears to a statement which he knows is untrue, is unfitted to be a patrolman. The civil service examiners at the present day detect most of the untrue statements which are made on application blanks, with the exception that there seems to be a well-founded impression among candidates that false statements of their age will not be detected.

The difficulty in detecting false statements of a candidate's age is one which is inherent in the subject of birth statistics and not one which is properly chargeable to a negligent administration of the civil service machinery. Unless births are officially registered and the civil service commission is able to verify the date of birth of each candidate by referring to such official registers, it is apparent that a candidate's oath of the date of his birth must be founded upon hearsay evidence. There are comparatively few cities in the United States which have official birth registers that can be consulted by the civil service authorities for the purpose of verifying the date of birth of each applicant, and, even where such registers exist, it is doubtful whether the large expenditure of time and money requisite for such verification would be justifiable, since comparatively few candidates misstate their age. If there are no official birth registers or if it is deemed inexpedient to go to the expense of consulting such registers as may exist, it is apparent that the candidate who is older than the maximum age limit fixed by the regulations can easily evade this maximum age limit.

At the present day the civil service commission relies upon one of two methods for the detection of false statements of age. Frequently the medical examination will disclose an apparent discrepancy between the age as stated by the applicant and the probable age of the candidate which is determined by the medical examiner after an

inspection of the subject. Frequently also a candidate has previously filed an application with the civil service commission for another position, and in that case may have stated his age differently in such application which is still on file with the commission. In either case the commission will require the candidate to file some documentary evidence of his age, preferably a transcript from an official birth register or from a church baptismal record; if none of these is obtainable, the affidavit of the candidate's mother or of the attending midwife relative to the date of his birth is accepted. It requires no elaborate demonstration to show that evidence of this character is unsatisfactory and that it is not a difficult matter for an unscrupulous candidate to swear to a false age. The number of applicants whose false age is detected by the medical examiners or by a previous application on file with the commission is very small and the trustworthiness of a mother's affidavit or of a midwife's affidavit in such a case is not of a high character.

Quite apart from the fraud which is practiced upon the police department when a man over the age limit is appointed as a policeman, it is evident that a man who intentionally swears to an incorrect age is not fit to be trusted with the important powers of a police officer. A man who will swear falsely to secure an appointment on the police force cannot be trusted to swear truthfully in court when he is prosecuting a prisoner who attempts to influence his oath corruptly. The United States Census Bureau is strongly advocating the establishment of official birth registration throughout the United States, and until such a system of birth registration has been in force throughout the United States for a quarter of a century or more it is doubtful whether the civil service commissioners can do much to verify the statements of birth of applicants for appointment. But it is at least worthy of careful consideration by these civil service commissions whether they ought not at the present day to verify the statement of each candidate respecting

the date of his birth, where the official birth registers of the candidate's native town permit such verification.

There is at the present day only one municipal civil service commission in the United States in which the system of preparing examination questions is such that it is absolutely impossible for any candidate to be supplied with all the questions before he reaches the examination room. That civil service commission is the New York Municipal Civil Service Commission. To devise a system which will accomplish this result it is necessary to found it upon the assumption that no officer or employee of the commission can be trusted to safeguard such a valuable secret. It has been the experience of civil service commissions in America that, although cases of actual corruption of the chief examiner or the assistant examiners are not of very frequent occurrence, yet these officers, when not personally corrupt, have often been careless and have frequently been imposed upon by unscrupulous men and women in their office or outside of their office.

And it has, furthermore, been found that it is almost as bad to have a system of preparing examination questions which will admit of there being a leakage of questions as to have an actual leakage occur. Because, if it is at all possible that a leakage may occur, the professional black-mailer will find it easy to induce the ignorant candidate to pay him for the questions, even when he is unable to supply the actual questions for which he is paid. The range from which questions for the police examinations must be selected is necessarily small, and when a man offers to sell the questions in advance it is nearly always possible for him to offer a set of questions which will include at least some of the questions given at the examination or some questions which are similar to them. It is this circumstance which renders the sale of examination questions in advance of the date of the examination so easy and profitable.

In New York City the examination questions cannot be sold before the examination, because they are not in ex-

istence before the day of the examination. When a police examination takes place the chief examiner calls upon each of his assistants for a set of questions and the papers submitted by each of the assistant examiners are kept in the chief examiner's safe until the morning of the examination, when the civil service commission itself meets and selects the questions to be used at the examination. This takes the duty and responsibility of selecting the questions from the professional examiners and places it in the hands of the commission itself, and it renders it impossible for anybody to offer the questions for sale in advance of the date of the examination, because the questions are not in existence until an hour before they are given to the candidates. Of course, it is conceivable that a person might obtain all the different sets of questions and supply them to the candidates, but such a set of questions would have no commercial value. What the unscrupulous candidate wants and is willing to pay for, is the set of questions which he will be called upon to answer. If he is to receive in the examination room ten questions he will not be willing to pay for one hundred questions which may contain the ten questions which he will receive at the examination. The New York system has effectually solved the difficulty connected with the leakage of examination questions and it will probably be copied in other cities.

By the personation of candidates is meant the device whereby one man takes a civil service examination for which another man receives credit. Under modern civil service regulations it is exceedingly difficult and almost impossible for such personation to be successfully practiced, and yet it is a favorite form of illegitimate practice at civil service examinations, as is indicated by the comparatively large number of offenders who are detected. The application blank, the identification sheets of the mental and the physical examinations, and the appointment sheet, when compared with each other, furnish a chain of evidence which renders successful personation almost impossible.

Not only is the handwriting on these various sheets compared, but the information which is called for on the identification sheets that are filled out at the beginning of the examination and on the appointment sheet which is filled out when the successful applicant is appointed, is of a character which can be furnished only by the applicant himself.

When we consider the corrupt practices which are due to the negligence or corruption of the examiners themselves, we have to deal with problems of greater difficulty. The negligence and prudishness of the examiners permits candidates to refresh their memories and consult notes in the toilet rooms and experience has shown that, even though candidates are known only by their numbers and not by their names, it is not always possible to guard against such occurrences as examiners for a consideration ascertaining the examination number of a particular candidate and marking his papers with special favoritism. Even when examiners work in teams, there is a possibility that the candidate or his friends may corrupt both members of the team.

In New York City an attempt was made to prevent even the possibility of the occurrence of such corrupt practices and also to relieve the examiners from outside pressure exerted by the friends of candidates, by keeping the candidate ignorant of the examination number which is assigned to him. Under this system the candidate placed all of his examination papers in an envelope which bore a number assigned to him when he entered the examination room, and after he had left the examination room a new examination number was assigned to his papers and marked on the envelope. After the papers had been rated the candidate's name was ascertained by a reference to his first examination number, which had been filed for this purpose. Under this system of double examination numbers it was impossible to corrupt the examiners, because neither the candidate nor the examiner knew

the number under which the papers of a particular candidate were being rated. This system has been superseded by the "Murray System," which is a somewhat similar system, aiming to conceal from the candidate the examination number under which his papers are rated. This system will be described in a subsequent chapter.¹

It is a well-settled principle of our public law that the power of appointment is a discretionary power, and that the appointing officer may not be divested by civil service legislation of the discretion which the grant of the power of appointment has vested in him. Where the subordinate officer performs service of a confidential character, where he comes into close personal contact with his superior, where he is entrusted with the duty of carrying out a definite administrative policy of his superior, or where he is not subject to any strict discipline after his appointment, it is important that the appointing officer should have a somewhat broad discretion in the appointment of his subordinates. It was true at one time in the history of civil service administration that the character of applicants for positions in the classified public service was not as high as the character of applicants for private employment, and it was also true at one time that the civil service examinations were tests of scholastic ability, and not tests of the candidate's fitness for the position which he sought. These defects in the system of civil service examinations have been largely remedied at the present day, although they still exist to a slight extent.

But even if they did exist to a large extent at the present day, which it is firmly believed is not the case, they would not justify the large discretion which is vested in the police commissioner in the matter of appointing policemen to the force. Policemen are officers who are selected after a most careful civil service examination, which examines them not only mentally and physically, but also morally. The character of each applicant for appointment

¹ Cf. Chapter X, *Infra*.

is thoroughly scrutinized and applicants of unsatisfactory character are rejected by the civil service commission. Policemen do not normally perform their duties in the immediate presence of the police commissioner and they are not required to carry out any administrative policy. It ought not to make the slightest difference to a police commissioner who the applicant for appointment as policeman may be, provided that he can be assured that he is mentally, physically, and morally fit for the position. The certification of an eligible by the civil service commission ought to be such a guarantee of the mental, physical, and moral fitness of the applicant that the police commissioner could take such a certification and base his appointment thereon in every case.

If the civil service commission habitually, or even frequently, certifies for appointment men who are unfit for appointment because of mental deficiency, physical defects, or moral delinquency, it is an indication that the examining machinery of the civil service commission is inefficient and such inefficiency can be easily corrected. But to allow the police commissioner to reject two out of every three eligibles certified to him for appointment by the civil service commission would be an insult to the civil service commission were it not for the fact that it is probably due to a firmly established principle of our law. This principle, which is the principle of the discretion of the appointing officer, ought to be modified by legislation if possible, and by constitutional amendment if necessary.

This discretion of the appointing officer serves no useful purpose. If a candidate has been subjected to a thorough mental, physical, and moral examination by the civil service commission he ought to be a fit person for appointment. If he is not a fit person for appointment the civil service commission should be criticized for its inefficiency. If he is a fit person for appointment there is no reason why the police commissioner should be given the power of refusing to appoint him. In actual practice this

discretion is frequently abused in one of two ways. Either the police commissioner refuses to appoint any eligible who fails to be recommended by the district leader of the dominant political party or every eligible who deserves to be appointed must pay for his appointment to some person who is delegated to collect the money. The fallacious argument is sometimes heard that a large discretion must be vested in the police commissioner, because, in spite of the most careful civil service examinations, undesirable men will sometimes succeed in having their names placed on the eligible list. There is undoubtedly some truth in this statement, since there is no administrative machinery which is absolutely perfect. But it is submitted that the vesting of this broad discretionary power in the police commissioner, which permits him to reject two out of every three eligibles, is not the proper manner of preventing the appointment of undesirable persons as policemen.

This object could be much better served by permitting the police commissioner to refuse to appoint a duly certified eligible only when he publishes in the minutes of his department a truthful statement of the reasons which cause him to refuse to appoint the man. The publication of a vague, indefinite, or untruthful statement by the police commissioner would subject him to a civil action for damages on the ground of libel. Another method of providing a check against any possible inefficiency of the civil service examining board, without granting such a broad discretion to the police commissioner as he enjoys to-day, would be by providing that when an undesirable eligible is certified to the police commissioner, such eligible be appointed to the police force and immediately suspended and tried on charges, as are all members of the force who are charged with delinquencies. Such a trial would protect the eligible from an unfair *ex parte* consideration of his case, and the decision of the police commissioner, if not rendered in accordance with the principles of the law, would be subject

to review by the courts on *certiorari*. Either of these two proposed remedies would terminate the activity of two classes of individuals who at the present day reap a harvest of illegitimate gain from those whose names are on the eligible list for appointment to the position of policeman,—the professional politician and the professional blackmailer.

Many police commissioners believe that they are doing their political party good service when they refuse to appoint any policeman who does not possess the backing of the district leader of their party, and many others unconsciously in the making of appointments assist the professional blackmailer, who knows how to influence the commissioner or the commissioner's immediate subordinates by the recital of some unproved scandal in the life of the eligible. Even when the police commissioner acts perfectly honestly in rejecting men whose names are certified to him from the eligible list, the fact that he assigns no reason for his refusal to appoint causes the eligible to believe that his failure to receive appointment has been due either to his inability to secure political indorsement or to his unwillingness to pay for the appointment.

SECTION IV. EFFICIENT PATROLLING

Unsatisfactory Conditions in American Cities—Attempts at Improvement—"Shoo-flies"—Central Office Roundsmen—Police Signal System—Objections Answered—Other Uses of the Signal System—Summoning Police Assistance—Patrol Service in American Cities.

The citizens of almost every large American city complain of improper patrolling on the part of their policemen. These complaints are not always well founded. The urban resident regards it as an evidence of improper patrolling if a policeman does not appear on the scene of a disturbance within a very few minutes after the beginning of a disturbance, while in reality this may be due to the fact that the policeman's post is too long. But even after making due allowance for the factors which tend to make the

police patrol of the city somewhat unsatisfactory to those citizens who are unable to give careful study to the problem of police patrolling, it is probably true that in many American cities the police patrol, and especially the police patrol at night, is not as efficient as it could be made, even with the small force of policemen employed. This inefficiency of the patrol service is undoubtedly due to the fact that some of the policemen shirk their patrol duties.

Policemen, like other subordinates, do not wish to perform any more work than they are compelled to perform, and if the patrol service in any city is unsatisfactory the blame for such unsatisfactory condition should be placed not upon the policemen but upon their immediate administrative superiors, the roundsmen. It is the duty of the roundsmen to see to it that the patrolmen attend to their duties, and if the roundsmen do not faithfully attend to this function they are practically worthless to the department. Their other duties are of no importance. It is commonly believed by students of the police problem that the Patrolmen's Mutual Benefit Association and the Roundsmen's Mutual Benefit Association come to some arrangement whereby it is mutually agreed that the roundsmen will not make any more complaints against patrolmen for improper patrolling than is absolutely necessary. In other words it is believed that these associations come to an understanding whereby the roundsmen pledge themselves not to perform their sworn duties. Whether a money consideration passes between the associations is of small importance; it is sufficient that the condition of affairs in some American police forces would seem to be entirely consistent with this hypothesis. Roundsmen are on terms of great familiarity with the patrolmen under their command. They often address each other by their first names; they frequently stand on street corners for long periods of time conversing; they exchange jokes in the back room of the station-house, and the roundsman, in many instances, prefers to have the reputation of being

"a good fellow" to the reputation of being a strict disciplinarian and an efficient superior officer. Under such a condition of affairs it is not to be wondered at that the police patrol service is not as efficient as it could be made and as it should be made.

Attempts to improve the police patrol service in America have taken one of three forms. Endeavors are constantly being made to increase the numerical strength of the municipal police forces; attempts are sometimes made to hold an officer responsible for occurrences on his post, and spies are sometimes employed to detect patrolmen who neglect their duties. Even admitting, as we undoubtedly must, that the police force of almost every American city is from a theoretical point of view insufficient in numbers properly to police the city, an increase in the numerical strength of the police force will not secure to its citizens an efficient patrol of the streets. The plea for more policemen, supported by an elaborate table of statistics which shows the strength of police forces in foreign cities, in which the police conditions are entirely different from what they are in America, is very attractive and appears very cogent to those who have not the time to give the problems of police administration careful consideration. It is also very attractive to the politician who seeks employment for his henchmen.

But the mere fact that a city has more policemen does not necessarily mean that it is better protected. The new recruits of the force quickly imitate the veterans, and if the spirit of loafing dominates the police force the mere addition of more recruits will not prove to be a satisfactory remedy. The doctrine of individual responsibility is much better, at least from a theoretical point of view. If you hold each officer personally responsible for crimes on his beat it is quite likely that he will attend strictly to his duties in order to prevent the commission of crimes on his beat. There are, however, two objections to this doctrine of responsibility in American police systems. In the first place, when the police force is undermanned, it may be an injustice to hold

a policeman responsible for crimes on his beat which he could not have discovered or prevented, and furthermore, when police officers are so frequently transferred from one precinct to another, often as a disciplinary penalty, they cannot become acquainted sufficiently with the people residing on their beats to make it reasonable for the department to hold them to such a strict responsibility for occurrences on their beats.

There remains for consideration only the third method used in some American cities for improving the police patrol service and that is the employment of spies, who are usually called "shoo-flies." These spies may be patrolmen in citizen's clothes, uniformed roundsmen sent out from headquarters, superior officers in citizen's clothes or private citizens. The attitude of American policemen and of the public generally is hostile to the employment of spies for this purpose, and this attitude of the American people is wholly justifiable in most cases, although not in all cases. The work of the spy is detestable, and the class of men who are willing to degrade themselves by performing these duties is such that but little credence can be placed upon their testimony. It injures the morale of the police force when favored patrolmen are sent out in citizen's clothes to spy upon other patrolmen of the force. It is doubtful whether it is good policy to permit superior officers to spy upon the subordinates of the force. It is undoubtedly bad policy to encourage citizens to spy upon the police.

The feeling of the policeman on this subject is that it is not the business of the citizen to constitute himself a superior police officer with inspection power. If a citizen is injured by the misconduct or neglect of a policeman it is not only his privilege but also his duty to prosecute the policeman but it is not proper for the citizen, except under extraordinary conditions, to go out on the street for the express purpose of discovering dereliction of duty on the part of the policemen. The citizen should be taught to obey the

policeman and not to criticise him except when it is absolutely necessary to do so. The prudent citizen should avoid all disputes with the patrolmen; when differences arise he should obey the patrolman without question and refer the disputed facts to a superior officer of the department for subsequent adjustment. When citizens are encouraged to criticise the police a spirit of lawlessness is bred in the city which may lead to serious breaches of the peace in the future. If the police department cannot maintain the official discipline of the department by its own superior officers, it is improper for the department to call upon citizens to aid in this work by acting as unpaid volunteer roundsmen.

The attitude of the American public, and particularly of the American policemen, towards the roundsmen who are sometimes sent out from headquarters in uniform or in citizen's clothes for the purpose of detecting patrolmen who do not patrol properly is more difficult of comprehension and of justification. It is the duty of the roundsmen to maintain the discipline of the department and to detect the policemen who do not properly perform their duties. It is perfectly proper for them to adopt whatever means may be necessary to perform their duties efficiently. If roundsmen attached to a precinct cannot properly maintain the discipline of the force attached to the precinct—and there are some experienced police officers who maintain that they cannot, although the majority would seem to hold the contrary view—then the roundsmen can be attached to the office of the chief of police or one of his immediate subordinates. And if street-car motormen and street urchins inform the patrolmen of the approach of uniformed roundsmen, there is no serious objection to their performing their duties in citizen's clothes. The American people seem to fail to distinguish between the propriety of these acts when performed by roundsmen whose duty it is to discover policemen who fail to attend to their duties and the impropriety of the same acts when performed

TABLE 12. PATROL SERVICE OF AMERICAN CITIES.

CITIES.	PATROL PERIODS			PATROL FORCE		HOURS OF SERVICE			STRENGTH OF FORCE		
		Continuous.	Broken.	Not Specified.	Percentage of Force on Patrol.	Not Specified.	Hours of Service	Three Platoon	Two Platoon	Not Specified	Total Strength of Force
1. Albany, N. Y.					75		6				157
2. Baltimore, Md.		X			94		10				116
3. Binghamton, N. Y.		X			100		8				940
4. Bridgeport, Conn.		X			92		10				40
5. Buffalo, N. Y.		X		X			X				70
6. Cambridge, Mass.		X			80		10				726
7. Camden, N. J.		X			80		10				122
8. Charleston, S. C.		X	X		87		8				91
9. Chattanooga, Tenn.		X			88		10				97
10. Chicago, Ill.		X					9				107
11. Cincinnati, O.		X		X	73		9				53
12. Cleveland, O.		X		X	95		10				2600
13. Cohoes, N. Y.		X			100		7				520
14. Columbus, O.		X			80		10				398
15. Covington, Ky.		X		X			12				402
16. Dallas, Tex.		X		X			12				380
17. Davenport, Ia.		X			57		12				19
18. Dayton, O.		X		X	88		8				13
19. Denver, Col.		X		X	85		8				159
20. Des Moines, Ia.		X		X			X				40
21. Detroit, Mich.		X		X	59		X				35
22. Duluth, Minn.		X		X	87		10				70
23. Elizabeth, N. J.		X		X			8				31
24. Elmira, N. Y.		X		X	85		8				127
25. Erie, Pa.		X		X			8				127
26. Fall River, Mass.		X		X	81		10				70
27. Fort Wayne, Ind.		X		X	74		10				20
28. Grand Rapids, Mich.		X		X	72		12				2
29. Harrisburg, Pa.		X		X			8				7
30. Hartford, Conn.		X		X	100		9				48
31. Haverhill, Mass.		X		X			9				356
							8				55
							8				46
							8				69
							8				40
							10				2
							10				44
							12				134
							8				94
							8				28
							9				38
							9				47
							9				100
							9				90
							9				32
							9				27

34.	Jersey City, N. J.	×	90	×	7	.....	410	257	19
35.	Kansas City, Mo.	×	.....	×	12	.....	244	.....	25
36.	Lawrence, Mass.	×	.....	×	8	.....	70	.....	2
37.	Lowell, Mass.	×	87	×	8	.....	133	118	5
38.	Lynn, Mass.	×	.....	×	8	.....	76	68	4
39.	Memphis, Tenn.	×	.....	×	10	.....	100	76	3
40.	Milwaukee, Wis.	×	83	×	11	.....	331	306	16
41.	Minneapolis, Minn.	×	66	×	11	.....	199	133	17
42.	Mobile, Ala.	×	92	×	12	.....	65	.....	4
43.	Nashville, Tenn.	×	95	×	8	.....	85	.....	.....
44.	Newark, N. J.	×	90	×	8	.....	410	286	13
45.	New Bedford, Mass.	×	84	×	6	.....	119	81	6
46.	New Orleans, La.	×	100	×	12	.....	250	206	24
47.	Newport, R. I.	×	.....	×	8	.....	35	29	.....
48.	Newton, Mass.	×	.....	×	...	×	59	40	3
49.	Paterson, N. J.	×	73	×	8	.....	104	.....	13
50.	Peoria, Ill.	×	.....	×	12	.....	75	.....	3
51.	Pittsburg, Pa.	×	94	×	9	.....	470	410	20
52.	Portland, Me.	×	84	×	...	×	62	57	2
53.	Portland, Ore.	×	.....	×	8	.....	100	93	3
54.	Providence, R. I.	×	.....	×	7	.....	300	.....	.....
55.	Richmond, Va.	×	.....	×	18	.....	101	.....	.....
56.	Saginaw, Mich.	×	65	×	8	.....	59	34	5
57.	St. Joseph, Mo.	×	91	×	12	.....	63	51	2
58.	St. Louis, Mo.	×	.....	×	12	.....	1200	.....	100
59.	St. Paul, Minn.	×	.....	×	8	.....	166	140	8
60.	San Diego, Cal.	×	100	×	9	.....	16	11	1
61.	Savannah, Ga.	×	.....	×	7	.....	121	101	.....
62.	Schenectady, N. Y.	×	80	×	9	.....	52	20	.....
63.	Scranton, Pa.	×	75	×	9	.....	72	.....	.....
64.	Seattle, Wash.	×	.....	×	...	×	120	.....	.....
65.	Somerville, Mass.	×	83	×	7	.....	63	44	4
66.	Springfield, Ill.	×	.....	×	...	×	42	39	3
67.	Springfield, O.	×	82	×	12	.....	40	.....	.....
68.	Syracuse, N. Y.	×	99	×	8	.....	121	.....	.....
69.	Tacoma, Wash.	×	.....	×	8	.....	50	.....	.....
70.	Toledo, O.	×	.....	×	8	.....	135	113	8
71.	Topeka, Kan.	×	.....	×	...	×	28	.....	2
72.	Troy, N. Y.	×	.....	×	12	.....	119	102	12
73.	Williamsport, Pa.	×	.....	×	10	.....	20	17	1
74.	Wilmington, Del.	×	.....	×	12	.....	83	70	.....
75.	Yonkers, N. Y.	×	83	×	...	×	62	52	4
Totals.....		43	4	28	31	5	2	1	.....
Average						IC			.....

by citizens who are intruders and who certainly are under no obligation to do these acts, whatever may be their rights in the premises. When the public hysterically calls a roundsman who is sent out from headquarters to trap inefficient policemen a spy, it misleads the patrolman and hinders the chief executive officers who may be attempting to improve the patrol service.

But none of the methods which we have described are perfectly satisfactory solutions of the patrol problem. The employment of roundsmen who are either attached to the office of the chief of police or are sent out in citizen's clothes, though the most satisfactory of all the solutions which we have considered, is not to be strongly recommended, because such roundsmen are sometimes unreliable, and their testimony frequently does injustice to the patrolmen against whom they or their superiors may be prejudiced. And yet the one system which is absolutely impartial and unimpeachable has been able to find a foothold in only a very few American cities. We refer to the police signal system which will not only enable the policemen to call assistance promptly in cases of emergency, but will also transmit routine signals by telephone, or preferably by telegraph, which will show whether the policemen are attending to their duties or not.

There is being manufactured by the Gamewell Company of New York a police signal system which not only transmits policemen's signals to the central office or precinct station-house, but also records them automatically, and this system is so carefully developed and perfected that it is impossible for any policeman or operator to tamper with it in such a way as to impair its efficiency or its reliability. The policemen in cities in which it is not in use are opposed to the introduction of such a police signal system, but it is believed that this opposition does not represent the opinion of the majority of the force. In every large body of men there are loafers and idlers, and the police forces of our American cities are not exempt from the burden of these

inefficient members. These idlers naturally do not want a signal service which will make them do their work or suffer the consequences, and it is believed that the opposition to the introduction of the police signal system which is found in many American cities is being skilfully nourished by these idlers. The vast majority of the policemen in our American cities, however, are not idlers, and when they oppose the introduction of a police signal system they do so under a misapprehension of the facts. They think that the signal system will, like the "shoo-flies," be the basis of unjust complaints and be capable of being manipulated to favor the favorites of the department and hound the unlucky ones. This is, however, not true. In those cities in which the Gamewell police signal system has been introduced the policemen, after a short period of trial, have been delighted with its operation. It is a perfectly fair and unimpeachable piece of machinery. It will detect the loafer but it will also protect the policeman who is willing to do his duty honestly.

Three objections are sometimes made to the introduction of a police signal system. The first is that the cost of such a system is very large. It must be admitted that the initial cost is quite large, being as high as one hundred and fifty dollars for each box, but the cost of maintenance is small. And, if a city has an efficient police signal system, the increased vigilance and attention to duty on the part of the policemen will enable the city to get along better with less men on the police force. Thus the initial cost of installation will be offset by a decrease or at least by a less rapid increase in the pay-roll of the police force. A second objection is that, if a policeman is required to send in a signal from his box at regular intervals, this will tie him up so much that professional criminals will be able to operate while he is thus engaged. This objection, however, is more apparent than real. It would probably not be advisable to require the policemen to send in their signals every fifteen minutes, because under such a regulation, an

inefficient policeman would probably remain standing in front of his patrol box. Nor would it be advisable to require that the signal be sent in each time from the same box, since this also would tend to decrease the effectiveness of the patrol service. But, if the policemen are required to send in their signals at regular intervals of about an hour and are required to travel from box to box during the intervening period, sending in their signals from different boxes at successive signaling periods, and if reasonable opportunities are given to the policemen for explaining their failure to signal, there can be no question but that the efficiency of the patrol service will be increased.

Every policeman has his fixed habits which the professional criminal can study and make use of, and the danger of the criminal using the opportunity afforded him by the policeman's presence at the signal box is probably no greater than the danger of the criminal's using the opportunity afforded him by the policeman's being off post or asleep if he is not required to signal. The third objection which is made against the introduction of police signal systems is more valid. It is that the officer who records the receipt of the signals at headquarters or at the precinct station-house may favor some policeman by recording a signal which was not received and punish others who may have incurred the displeasure of superior officers by failing to record signals which were sent in. This objection, however, is overcome by the Gamewell system, which records the signals automatically on a piece of tape without the intervention of any human agent, and therefore without the possibility of any favoritism.

As an aid to increasing the efficiency of the patrol service the Gamewell police signal system enables the policeman to send in his signal at regular intervals with great promptness and with absolute certainty. The signal is recorded automatically at headquarters on a tape, and this tape can be used as evidence at the trials of delinquent officers. It eliminates the personal equation which causes so much

dissatisfaction and so much injustice when "shoo-flies" are employed. The signal is transmitted by telegraph and not by telephone, and thus the possibility of a signal being imperfectly understood or improperly recorded is largely eliminated also. The Gamewell police signal system may be used in addition for the purpose of summoning assistance in cases of emergency. A police officer can, by inserting his key and without opening the door of the box, quickly summon the patrol wagon with reinforcements, and after opening the box he can send in special calls for the patrol wagon, for the ambulance, for the police reserves, or for anything else which may be wanted. These signals are transmitted by telegraph and not only recorded automatically with the number of the box from which sent and the date, hour, and minute at which received on the tape at the central office, but also audibly announced so as to call the operator's attention to the signal. There is also in each box a telephone apparatus by means of which the officer can send in to the central station requests for which there are no telegraphic signals arranged. A small bell in the box rings to indicate to the officer that the telegraphic signal has been transmitted to the central office. It is also possible to equip these signal boxes with bells on the outside of the top for service during the day and lights for service during the night, by means of which the operator at the central office can summon a policeman to whom superior officers desire to communicate special instructions.

There is at the present day no satisfactory method by which a citizen can summon police assistance in cases of emergency. Police whistles are in some cities furnished to citizens of responsibility, but even responsible citizens frequently lack the discernment and the discretion necessary for the use of police whistles; and, since it is impossible to hold the owner of a police whistle responsible for its proper use, the supplying of these whistles to citizens is not to be encouraged, at least in the larger cities. The public telephone is frequently used to summon

police assistance, but much valuable time is lost in repeating to the precincts messages which are sent to the central office, and sometimes in the process of transmission a message is lost or incorrectly transmitted. Under the Gamewell system a citizen to whom a citizen's key has been issued can call police assistance by inserting his key in the door of the closed signal box. His key is then trapped and cannot be released until a police officer opens the box. The number of the key is inscribed upon it, and the holder can be held responsible for any unnecessary as well as for any malicious false alarm.

If the police signal boxes are to be found at convenient street corners in the city, and if citizens' keys are issued to all applicants of known responsibility or to all applicants who furnish a bond conditioned upon their careful use of the privilege, there would not only be no need of issuing pistol permits in our larger cities, but the number of crimes within the city would of necessity be greatly reduced. Professional criminals carefully plan their crimes in advance, and such criminals would not attack citizens who are able to summon police assistance quickly. The danger of false alarms would, under such a system, be reduced to a minimum, and in any event the danger of false alarms ought not to be considered of sufficient importance to prevent the installation of such a signal system, because the attitude of the police ought to be that they prefer to respond to ten false alarms rather than that they should fail to be present at one place where their services are required.

CHAPTER X

EXAMINATIONS IN NEW YORK

"Many shall be called, but few shall be chosen"

SECTION I. EXAMINATION FOR PATROLMAN

Application Blank—Age—Full Name—Citizenship—Date of Birth—Residence—Education—Police Record—Use of Intoxicating Liquors—Height and Weight—Previous Service—Military Service—As Patrolman—Other Occupations—Vouchers—Certificates—Relationship—Character—Occupation—Jurat—Fees—Medical Examination—Mouth—Feet—Height and Weight—Corrupt Practices—Heart—Personal History—Preparation—Physical Examination—Chinning—Dynamometer Tests—Dumb-bell Test—Agility Test—Measurements—Preparation—Marking Scale—Written Examination—Books Forbidden—Examination Rules—Preliminary Sheet—Subjects—Memory Test—Government—Localities—Arithmetic—Monitors—Computation of Patrolman's Average.

EACH applicant for examination for the position of police patrolman must fill out an official application blank and file the same with the Municipal Civil Service Commission. These blanks may be obtained absolutely free of charge at the application desk of the Civil Service Commission at 299 Broadway, Borough of Manhattan. If it is impossible or inconvenient for the applicant to call for the blank at this office personally, he can obtain one without charge by writing a letter to the Civil Service Commission and sending the letter by mail to the office of the Commission. Application blanks will be sent without charge for postage on receipt of such a written request. It is essential that these application blanks be filled out with great care since the

Civil Service Commission must, under the law, reject or return for revision all applications which do not strictly comply with the provisions of the statutes or the regulations of the Commission. There is, however, no necessity of asking assistance in the preparation of the application blank. Any man who has sufficient intelligence to pass the mental examination for the position of police patrolman can fill out his application blank himself without assistance, if he will not fill out the blank too hurriedly or too carelessly. The whole blank must be filled out in ink and not in pencil, and it must be filled out in the handwriting of the applicant.

Nothing is to be written on the first line of the application, which contains blanks for the application number, the index number, the examination number, and the date of notification. These blanks will be filled out by the clerks of the Civil Service Commission. At the head of the blank the candidate is required to state his age. The applicant must here state his age at his last birthday and not his age at his next birthday. A man who is in the twenty-fifth year of his life is twenty-four years old, because his age at his last birthday was twenty-four years. The age which must be given on this blank is the number of years of life which have been completed by the candidate and not the year of life in which the candidate is living at present. Each birthday completes a year of life and is not legally regarded as beginning a new year of life. A man's first birthday occurs at the end of his first year and so on throughout life.

In answer to the first question the candidate must give his full legal name. This includes his full surname or family name, and his full first name or Christian name. If, in addition, he has one or more middle names he should not give them in full, but only insert their initials. For example, the name is to be written John J. Smith.

In answer to the second question the candidate must state "Yes," since only citizens of the United States can be examined for this position. If the candidate was born in

the United States his statement to this effect will be accepted by the Civil Service Commission. If he was not born in the United States he must become naturalized, unless he was a minor when his father became naturalized. If the candidate is a naturalized citizen of the United States it is necessary that he forward to the Civil Service Commission with his application his own final certificate of naturalization or the final certificate of naturalization of his father. This certificate will be examined by the Civil Service Commission and, if necessary by the United States District Attorney, and then returned to the applicant. Papers declaring the applicant's intention of becoming naturalized which are commonly called "first papers," are not accepted by the Civil Service Commission, as they have no legal value.

In answer to the third question the candidate must state the month, day, and year of his birth, as, for example, January 1, 1883. It is exceedingly important that the applicant be absolutely certain of the date of his birth, because, if a mistake is made in stating the date of birth, this will be entered upon the records of the Commission and will cause the applicant a very large amount of trouble not only in this examination, but also in any other examination which he may wish to take. If possible, no applicant should state the date of his birth until he has secured for his own information absolutely trustworthy information regarding the exact date of his birth. Such information can be obtained either from the Board of Health of the city where the applicant was born or from the register of the church in which he was baptized, or frequently from a family Bible. No man can be appointed to the police force unless he is at least twenty-three years of age and not more than thirty years of age on the date on which the eligible list is established. However, applicants who lack a few months of twenty-three years are sometimes permitted to take the examination by special resolution of the Civil Service Commission if it is likely that they

will be twenty-one years of age before the eligible list is promulgated, while in the case of men who are so nearly thirty years of age that it is probable that they will become thirty years of age before the eligible list can be established, they will be warned that if they take the examination they will do so at their own risk, since their names cannot be placed on the eligible list after they are thirty years of age, even though they were less than thirty years of age when they filed their application and took the examination.

In answer to the second part of this third question which asks where the applicant was born, the name of the country of the applicant's birth should be stated, as, for example, Germany, and in addition, if he was born in the United States, he should give the name of the State where he was born. It is not necessary to give the name of the city where the candidate was born, although if it is given it will not be considered an error. A candidate who was born in a foreign country must give also the date of his entrance into the United States. The year of the candidate's entrance is amply sufficient, but if the month and the day of the candidate's entrance into the United States are known, there is no objection to inserting it.

The fourth question inquires regarding the candidate's residence within the State. The candidate should give the exact date on which he first entered the State of New York, if practicable. If the candidate was born in the State of New York, this date must be the same as the date of his birth given in answer to the third question. If the candidate was born in a foreign country or in a State other than New York, the exact date on which he first came to the State of New York should be given. This date should be given in the usual form, as, for example, January 15, 1890. No candidate can be examined for the position of police patrolman unless he has resided one year within the State of New York at the time of his appointment, but since a year frequently elapses between the filing of the application blank and the date of the appointment, an

applicant who is a *bona fide* resident of the State of New York for any length of time and who is a resident of the State of New York at the time of the filing of the application will be examined, subject, however, to the condition that he cannot be certified for appointment until he has resided a year within the State.

In answer to the second part of the fourth question the candidate should give his exact post-office address. The street and number of the house in which he lives should first be given and then the name of the post-office to which his mail is addressed. The name of the borough in which he resides should also be given in the proper blank. For example, the answer to this question may properly be written as follows: No. 115 East 120th Street, New York, Borough of Manhattan. It is particularly important in the case of applicants residing in the Borough of Queens or the Borough of Richmond that they give the name of the village or town in which they reside, since otherwise the notice of the examination, which will be mailed to them by the Civil Service Commission, to the Borough of Richmond without any further designation, cannot be delivered by the post-office authorities.

In answer to the fifth question the applicant must state the kind of school in which he received his education. It is not necessary to state the name of the school, but simply the kind of school. If he was educated in the public school or if he received a business school education or attended a college or university after leaving the public school, he should give this information in answer to this question. In answer to the sixth question the candidate must state whether he is single, married, widowed, or divorced. If the applicant is married he should also state how many children he has; if he is not married and has never been married it is not necessary to answer the second part of this question relating to the applicant's family. Applicants who reside with their parents or with their brothers and sisters are not regarded as having a family in

the legal sense of the word. Widowed or divorced applicants who have children should so state in their application.

The laws of the State of New York provide that no man shall be appointed to the police force who has been convicted of felony. Each applicant must therefore state, in answer to the first part of the seventh question, whether he has ever been complained of, indicted for or convicted of any violation of the law. This answer must be either "yes" or "no." If the answer given is "no," the second and third parts of this question need not be answered. If the answer is "yes," the candidate must give a full account of each occasion on which he has been charged with crime and the disposition of the charge. This question must be answered with absolute accuracy and truthfulness by the applicant, who should remember that he is debarred from appointment only if he has been convicted of felony. A man may have been accused of felony and still be permitted to become a policeman, if the accusation was not proved at the trial, and similarly a man may have been convicted of crime and be permitted to become a policeman, if the crime was only a minor misdemeanor and not a felony or other serious offense. In answer to the third part of the question the applicant must answer "No," since he must give, in answer to the second part of this question, a full statement of all the occasions on which he has been charged with crime.

Applicants should answer the eighth question truthfully. It is not necessary that an applicant should answer that he does not use intoxicating liquors at all. The Civil Service Commission desires sober and industrious men as police recruits, and it is not looking for angels. The total abstainer from liquor may be a very desirable man from a theoretical point of view, but a man who drinks a glass of beer at his meals is not necessarily nor even probably an undesirable applicant. The candidate should also remember that his answers on this application blank are under oath and should be careful not to perjure himself. He should state in answer to this question, in the first place,

what liquors he is in the habit of drinking, whether beer, wine, whiskey or brandy, and about how much he ordinarily drinks. This question may be answered in the following manner: "I drink beer at my meals," or "I take a glass of whiskey occasionally." The mere fact that a man drinks intoxicating liquor will not debar him from appointment unless he drinks liquor to excess.

In answer to the ninth question the applicant should state his height in feet and inches and his weight in pounds. The Civil Service Commission will not accept the applicant's statement of his weight and height, but will measure and weigh the applicant in the medical examination. This question is asked to save those who are distinctly below the minimum requirement for height or weight the trouble of taking the medical examination. Applicants for the position of patrolman must be at least five feet eight inches in height and one hundred and forty pounds in weight, and for each inch of additional stature the applicant must have five pounds of additional weight. These, however, are minimum requirements, and if an applicant has a poor physical appearance he may be rejected for poor physique even though he has these minimum requirements for height and weight.

In answer to the tenth question the applicant should indicate by writing "yes" or "no" whether he has been in the service of the United States, of any State or of any city, county or town. If he has ever held any public office or employment he must answer "Yes," and add the nature of the office and the place where employed, giving the name of the city and the name of the State. In answer to the second part of the question the applicant must give the year in which he left such position and the reason why he left it,—whether he resigned or was discharged.

In answer to the eleventh question the applicant must state by writing "yes" or "no" whether he has ever been in the naval or military service of the United States, and if he has been in such military or naval service, he should state,

in addition, the name of the regiment and the company in which he served in the army, or the name of the vessel on which he served in the navy. Applicants should remember that service in the National Guard in time of peace is not service in the military establishment of the United States, and should not be mentioned in answer to this question. Those who served in the volunteer army during the Spanish War should, however, include such service in their answer to this question, as such service is considered service in the army of the United States. If the candidate has served in the army or navy of the United States, he must give the date of his discharge therefrom, provided that his discharge was an honorable discharge. If he was not honorably discharged he will be required to state so. If he is still in the United States army or navy he should state that fact.

The answer to the twelfth question, whether he has ever filed an application for the position of patrolman in the city of New York, should be either "yes" or "no." If he has previously filed such an application he should state in what year. He should be very careful to answer this question truthfully, because, if he has previously filed an application, and answers this question in the negative, his present application will be rejected. Whenever an application is filed a permanent record of the fact is made in the archives of the Commission, and these records are always searched to ascertain whether the applicant has truthfully answered this question.

In answer to the thirteenth question the applicant should give, in the first column, his occupation for each of the last five years; in the second column he should give the name of his employer for each of the last five years, and in the last column he should give the street and number and the town where he was employed. If he has been in the employ of the same man for more than one of the five years he should repeat the information on as many of the lines as may be necessary. The blank at the foot of the page

should be filled out in accordance with the following model: The first day of January, 1909, at New York City, County of New York, State of New York. Then the applicant should sign his name.

On the second and third pages of the application must be given the indorsement of four vouchers. These vouchers must be residents of the city of New York, they must have known the applicant well for at least one year, they must not be near relatives of the applicant, and they must be of good character and standing in the community and not be keepers of liquor saloons. These vouchers may be asked by the Civil Service Commission for detailed information as to the ability, industry, character, and habits of the applicant, and it is desirable therefore that the applicant should secure indorsement only from those who know him well and who are willing to furnish such information as they may possess regarding the applicant in greater detail. If a voucher fails to furnish information requested by the Civil Service Commission promptly, it will be considered a refusal and will be a disadvantage to the applicant.

One of the four vouchers should preferably be a physician, but the Civil Service Commission will not insist upon this requirement. Every candidate should, for his own protection, have himself examined by a physician before he takes the examination, so that he may not waste his time in taking the examination when he is physically disqualified from passing it. If the applicant has himself examined by a private physician before he takes the medical examination of the Civil Service Commission, the physician will probably be willing to act as one of his vouchers without any additional charge. If the applicant is required to pay a physician for his acting as voucher and is able to secure four other vouchers without any expense to himself he need not trouble to secure the indorsement of a physician.

Each voucher's certificate must be filled out in the handwriting of the voucher himself. Candidates must not, under any circumstances, fill out any portion of the vouch-

er's certificate. The voucher must insert in the first blank his occupation, designating it with sufficient definiteness to render its nature certain. Such designations as merchant or clerk will not be accepted; the voucher must insert dry-goods merchant or post-office clerk, as the case may be. In the second blank the voucher must insert the name of the town or borough of the city in which he resides and in the third blank the name of the county. He must in every case be a resident of the city of New York. The printed portion of the voucher's certificate states that the voucher represents to the Civil Service Commission that he knows the applicant personally, that he has signed his voucher certificate in his own handwriting, that he knows that the applicant is of good moral character and industrious habits, that he has read the applicant's statements and particularly his answers to the questions relating to his age, his freedom from conviction for criminal offenses and his previous public employment, if any, and that he consents to have his certificate made public and is willing to furnish any other information which he may possess.

In answer to the first question the voucher must state the number of years he has known the applicant. He must know the applicant at least one year in order to have his certificate accepted. In answer to the first part of the second question as to whether he is related to the applicant he must answer "yes" or "no," and in answer to the second part of this question he must state the relationship, if he is related to the applicant. Certificates from near relatives, such as brothers and sisters or parents, will not be accepted.

The third and fourth questions must be answered in the negative, and the fifth and sixth questions must be answered in the affirmative in order that the certificate may be accepted by the Commission. If the voucher knows of any incident in the history of the applicant that might disqualify him for the duties of the position of police patrolman, or if he knows that the applicant is addicted to the use of intoxicating liquors to excess, the Civil Service Commission

will reject his application; and similarly, if the voucher knows that the applicant is not of good reputation and industrious habits, or if the voucher would not trust the applicant with employment requiring undoubted honesty and courage, the Civil Service Commission will not examine him for the position of police patrolman.

In answer to the first part of the seventh question, which is whether the applicant was ever in the employ of the voucher, the voucher must answer either "yes" or "no"; and if the applicant was ever in the employ of the voucher, the number of years during which he was in his employ must be stated in answer to the second part of this question. It is preferable that the voucher be a former employer of the applicant. The eighth question inquires whether the voucher is in any way connected with the liquor trade, since such vouchers are as a general rule not accepted by the Civil Service Commission. The voucher must sign his name, the date, his residence address and his business address at the bottom of the certificate, and care should be exercised that the date is the same or later than that signed at the bottom of the first page by the applicant himself. It may be stated in this connection that women are as acceptable to the Civil Service Commission as vouchers as are men, and that the certificates of co-partnerships or corporations will not be accepted as vouchers.

After all of the vouchers have been filled out and the application is in other respects entirely complete, the applicant must take it to a notary public or a commissioner of deeds, a judge or any other officer who has power to administer oaths. This officer must fill in at the top of the jurat or notary's certificate the name of the county and the name of the State in which the oath is administered. He must then swear the applicant and read the oath printed on the application blank to him. The applicant must sign his name in the space provided therefor at the foot of the jurat, and the officer administering the oath must then fill in the date and sign his name and his official

title. If the officer has an official seal he should affix it at the proper place, although such seal is not absolutely necessary.

A few additional words of caution may be added. The applicant should be absolutely certain that every single question on the application blank has been answered completely, and that there are no erasures of any kind in the voucher's certificates or in the officer's jurat. He should be certain that the date of the jurat is the same or subsequent to the dates of the vouchers. If the date of the jurat is earlier than the date of any voucher the application will be returned by the Civil Service Commission and must be re-sworn to, which involves additional expense. The legal charge for administering an oath is twelve cents, and no applicant need pay any other charge of any kind in order to be examined for the position of police patrolman. No employee of the Civil Service Commission is permitted to receive a fee of any kind from an applicant, no employee being even permitted to sign the jurat of a patrolman's application blank and receive a notarial fee therefor.

Furthermore, the Civil Service Commission will receive and treat confidentially any information which may be sent to its president tending to show that any individual is offering to candidates for the position of patrolman any extra inducements which will assist them in passing the examination or securing an appointment by improper means; and, if the information so furnished is sufficient to secure the conviction of any offender, a liberal reward will be paid therefor. All individuals who offer to sell to prospective candidates the questions which are to be used at the examination in advance of the day of the examination are impostors and frauds. Such questions cannot be sold in advance, because they are not in existence. The questions are framed, selected, and printed by the Commission while the candidates are sitting in the examination hall and, since they are not in existence until the moment of the examination, they cannot be secured or sold at any previous time.

When the applicant reaches the examination room he is ordered to strip to his underclothing and wait until he is called into the office of the medical examiner. Just before entering into the medical examiner's room he is ordered to take off his underclothing and he enters the examiner's room in a nude condition. Each applicant is furnished with an official notice to appear for examination and this is his authority to enter the examination hall and the examiner's room. On this notice to appear is written a serial number, the applicant's name and address, and the date of the examination. On entering the examiner's room the applicant, to facilitate the examining process, should be prepared to call out the serial number on his notice to appear, to the examiner in charge of the records, so that he can turn to the proper page of his record book without unnecessary delay. The examiner compares the name and address on the notice to appear with the name written in the official record and asks the candidate two questions,—his age and whether he has ever been examined before. If he has been examined before he is asked whether such examination resulted successfully or unsuccessfully, and if he failed, the cause of his failure. His answers to these questions are recorded in the official record of examinations and are also noted on the official notice to appear. The applicant is next asked to make oath that he will answer truthfully all questions put to him by the examiners and that he is the person who is to profit by the examination. Passing next to the chief medical examiner his medical examination is begun.

While he faces the examiner a careful medical inspection of his person is made. He is examined for varicose veins or a marked tendency to their formation, and for varicocele, hydrocele, enlargement of the testicle, stricture or incontinence of urine. Any acute diseases of the genito-urinary organs and any symptoms of venereal disease will cause the peremptory rejection of the candidate. The abdomen is examined for rupture or for

evidence of an incompletely healed laparotomy. The examiner next asks the subject to open his mouth, which is examined for deformities or conditions that interfere with distinct speech or that predispose to disease of the ear, nose, and throat. Obstruction to free breathing, chronic catarrh or very offensive breath may cause the rejection of the candidate. The teeth must be clean, well cared for, and free from multiple cavities. There must be at least two molar teeth to each jaw on each side and these teeth in good apposition for proper mastication. The jaws must be free from badly broken or decayed teeth so far destroyed as to render filling or crowning impossible. Missing teeth may be supplied by crown or bridge work, and where the site of the teeth makes this impossible rubber dentures will be accepted. At least twenty natural teeth must be present.

The subject is next requested to turn around so that the back of his head faces the examiner and to bend forward until the tips of his fingers touch the floor. While in this position the medical examiner carefully inspects the subject's rectum and anus for the presence of fissures, fistulas, or external or internal piles, which are causes for rejection. The subject is next asked to raise his right foot and his left foot successively so that the condition of his feet may be examined by the physician. Any affections of the joints, sprains or stiffness of the arms or legs, hands or feet will cause the rejection of the candidate, and in the case of the feet, flat feet, ingrowing nails or hammer toes are especially looked for, because these would prevent the candidate, if appointed, from performing his duties properly and efficiently. And finally the physician inspects the general appearance of the candidate once more to make sure that he is free from any marked deformity, free from all parasitic or systemic skin diseases and from evidence of intemperance in the use of stimulants or drugs. The body must also be well-proportioned, of good muscular development, and show careful attention to personal cleanliness.

After the candidate is dismissed by the first medical examiner he is sent to the first physical examiner, who measures his height on the stadiometer. The minimum height required of applicants for the position of police patrolman in New York is 5 feet 8 inches in the bare feet. Next the candidate is weighed. The minimum weight required of applicants who are 5 feet 8 inches in height is 140 pounds, and for each additional inch of height, five additional pounds of weight are required. And thirdly the candidate's girth of chest after a normal inspiration and after a forced inspiration is measured. The minimum chest measurement varies from 33½ inches in the case of applicants who are 5 feet 8 inches in height to 36 inches in the case of applicants who are 6 feet 5 inches in height, and the minimum mobility of the chest varies from 2 inches in the case of applicants who are 5 feet 8 inches in height to 3½ inches in the case of applicants who are 6 feet 5 inches in height. Candidates who are unable to meet the minimum requirements for height, weight, chest measurement or chest mobility are rejected.

In view of this fact attempts are frequently made by candidates to evade these minimum requirements by improper means. Candidates attempt to evade the minimum requirement for height by standing on their toes while they are being measured. This crude attempt at cheating is easily detected by holding two pieces of paper under the candidate's heels and trying to pull them away while the measurement is being taken. Unless the candidate stands squarely on both feet the papers will not be held to the floor by the weight of the candidate's body. There is on record also a case in which an applicant for the position of police patrolman had a friend hit him over the head with an iron asphalt ladle to increase his height half an inch, but this case is one which involved unusual ingenuity on the part of the applicant as well as unusual cruelty on the part of his friend. Candidates also try to evade the minimum height requirement by going through a process

of stretching or a process of resting before they go to the examination. The minimum weight requirement is most easily evaded by taking a very heavy meal before the examination and then drinking large quantities of water. The bloated condition of the candidate's abdomen generally gives the medical examiner a clue to this particular attempt at cheating.

After having passed the first medical examiner and the first physical examiner, the candidate is sent to the second medical examiner for an examination of his heart and his vision. His vision is tested by the use of Snellen's test types. Owing to the fact that it has been discovered that candidates frequently memorize the letters on these test cards, the cards are changed by the examiner every day and frequently several times in a single day. Moreover, when the examiner suspects that the candidate has memorized the letters he tests his vision by calling upon him to read particular letters which he points out or by asking him to read some other printed matter. The examination of the heart is made by means of a thorough stethoscopic examination of the chest. Functional murmurs due to the excitement incident to the medical examination are generally disregarded, but any murmurs which are due to organic changes and which are propagated as the murmurs of cardiac lesions invariably are propagated will cause the candidate to be rejected. Considering the fact that the candidates are all young men in the prime of life, the number of men who are found to be suffering from valvular insufficiency of the heart is very large. These cardiac lesions are sometimes caused by acute diseases, such as pneumonia, but more frequently they are caused by too much muscular exertion and training of a violent kind. When it is borne in mind that many of these lesions of the heart, such as stenosis, render the subject liable to sudden death, it is extremely hazardous for men so afflicted to undergo the muscular strain incident to the preparation for police examinations. Every candidate ought to have

his heart, at least, examined before he begins to prepare for these examinations.

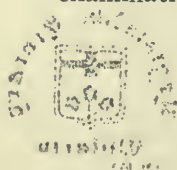
After the candidate has passed both medical examiners and the first physical examiner, he returns to the assistant examiner in charge of the records, and upon showing his official notice to appear, upon which the fact of his having passed the medical examination is noted, he is furnished with two blanks which he is requested to fill out. One of these blanks is the family and personal history blank and the other is the identification sheet. On the family and personal history blank the candidate is requested to state certain facts regarding his own past and present health and that of his parents and other members of his immediate family, while the identification sheet contains questions regarding the candidate which are of such a nature that only the candidate himself can answer them. The candidate puts on his underclothing before he fills out these blanks, and after the blanks have been filled out and approved by the examiner in charge of this branch of the examination the candidate is ordered to wait in his underclothing for the beginning of the competitive physical examination.

Experience has shown that many applicants are rejected in their medical examination for defects which could have been remedied if the applicant had known before the examination that he was suffering from these defects and that these defects were remediable. Deficient stature can but seldom be remedied, and defective vision is also generally of such a character that it cannot be cured except by the use of glasses, which is not permitted during the medical examination. In exceptional cases, however, even these defects can be remedied by proper treatment. Similarly organic diseases of the heart generally cannot be cured. With the exception of these three defects, however, almost all the defects for which candidates are rejected on the medical examination can normally be remedied by proper medical or surgical treatment. Re-

spiratory obstruction and chronic catarrh are easily cured. Defective teeth can readily be repaired by the dentist. A rupture can be cured by a surgical operation, and varicocele, hydrocele, enlargement of the testicle, and stricture can be similarly cured. Fissures, fistulas, and piles can also be cured by an operation. Varicose veins can be excised, and flat feet, ingrowing nails, hammer toes, and other affections of the hands or feet can be easily remedied by proper treatment.

Many of these diseased conditions will be treated without charge at the dispensaries and city hospitals. Others can be cured only at private hospitals or by private practitioners. In view of the fact that so many of these defects are curable by legitimate means, it seems strange that most of the candidates who are rejected by the medical examiner try to secure their acceptance by the interposition of political or personal influence or even by baser appeals. This condition of affairs in our American municipal administration must be ascribed principally to the ignorance of the candidates and also in large measure to their poverty. To the credit of our American civil service examiners it should be stated, however, that these civil service examinations are conducted in an eminently fair and impartial spirit and that neither political nor personal influence nor any baser considerations have ever been able to influence the medical examiners.

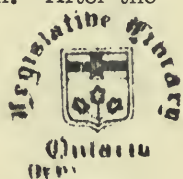
For the physical examination each candidate is permitted to wear whatever clothing he prefers. It is probable that the most suitable clothing for this examination is a pair of running pants, an athletic shirt, and a pair of rubber-soled shoes; but those candidates who do not wish to provide themselves with this equipment can take the examination in their drawers, undershirt and socks quite as well. At the beginning of the examination each candidate is given an examination number, and the whole number of candidates is divided into four or more squads for the examination. It is important that the candidate carefully



remember his examination number and that he follow the man in front of him throughout his examination, since otherwise another man may receive credit for his performance in the examination.

The first exercises of the examination are the dip and pull up, which test the strength of the upper arms. In the pull up or "chinning," as it is called, the candidate is required to hang in a suspended position from a rung of the horizontal or oblique ladder so that his feet do not touch the ground, and from this position he is required to lift the weight of his body until his chin is above the rung of the ladder from which he is hanging. The candidate is permitted to chin himself not more than fourteen times. Then he is required to dip not more than six times, with the proviso that if he was unable to chin himself fourteen times he will be permitted to dip as often as he can to make up a total of twenty "chinnings" and dips. The dip consists of supporting one's self by the hands in an upright position on the parallel bars with the arms fully extended and then, while supporting the weight of the body upon the arms, bending the arms at the elbow until the chin is at a level with the hands. Care must be exercised in "chinning" that the candidate hangs fully suspended after each "chinning," and in the dip that the candidate's chin actually reaches the level of the hands at each dip from the fully extended position of the arms. A candidate who can chin and dip twenty times is given a rating of 100 for this exercise. The exercise in "chinning" and dipping is given a weight of five in the physical examination.

The next exercise is one which tests the strength of the forearms. For this test the candidate is asked to squeeze first with the left hand and then with the right hand a machine which records the strength of the forearm upon a dynamometer. This dynamometer reading is recorded and subsequently marked on a percentage scale. The exercise which tests the strength of the forearms is given a weight of three in the physical examination. After the



strength of the forearms has been tested in this way the candidate is required to pull a machine laid across his chest to test his traction pull. The result of this test is also recorded on a dynamometer and subsequently marked on a percentage scale. This traction pull is given a weight of three in the physical examination. After the traction pull the candidate is required to squeeze a dynamometer placed on his chest to test the strength of his pectoral muscles. The result of this test is recorded on a dynamometer and marked on a percentage scale, a weight of one being given to this test in the physical examination. A dynamometer is next placed between the candidate's knees and he is required to squeeze it with his legs as hard as possible. This is subsequently marked on a percentage scale and a weight of one given to it on the physical examination. And finally, the strength of the candidate's back and the strength of the candidate's legs are tested by means of dynamometer readings obtained in the following manner: He is first required to pull up with his legs straight while the dynamometer is fastened to a chain attached to the floor. This tests the strength of his back, the result of the test being recorded on the dynamometer and subsequently marked on a percentage scale and a weight of three attached to the test in the physical examination. Next, the strength of the legs is tested by having him pull up with his legs bent at the knees while the dynamometer is again fastened to a chain attached to the floor. This tests the strength of the candidate's legs and the result is recorded on the dynamometer and subsequently marked on a percentage scale, a weight of four being attached to this test in the physical examination.

After the candidate has completed these dynamometer tests he is required to lift a sixty-pound dumb-bell to his shoulder and then above his head with each hand. This exercise is a better test of the candidate's strength than the dynamometer tests, because success in the dynamometer tests depends largely upon the candidate's familiarity with

these tests and upon the proper adjustment of the dynamometers. Thus, in testing the back and legs a candidate may be put to a considerable disadvantage by reason of the fact that the chain is too long or too short, and in the case of the adductor test the candidate may be put to a disadvantage if the dynamometer is not adjusted perfectly perpendicular to the plane of his legs. When we come to the dumb-bell test, on the other hand, the success of the candidate depends almost entirely upon his physical strength and not so much upon his familiarity with the test or upon the care of the examiner. The dumb-bell test is rated by the examiner on a percentage scale according to the precision and dispatch of the candidate in performing the exercise. Fifty per cent. is the maximum rating for each arm, and a weight of three is attached to this test in the physical examination. After lifting the dumb-bell the candidate is required to lie in a supine position on a mat and lift a twenty-five-pound bar bell to a sitting position. This exercise tests the strength of the candidate's abdominal muscles and is marked on a percentage scale by the examiner according to the precision and dispatch with which the exercise is performed. A weight of three is attached to this test in the physical examination.

After the candidate has completed all of these tests he is given an agility test. In this test he is required to jump over a rope in any way he pleases. The rope is first adjusted at a height of four feet and if he succeeds in jumping over it at this height he is given a rating of 60 per cent. If he is unable to jump at this height he is given a rating which varies between zero and 60, according to the comparative proficiency of the jump. Thus, if the candidate almost clears the rope at this height he may be given a rating of 50 per cent., while if he scarcely succeeds in jumping at all he may be given as low a rating as 10 per cent. The rope is next raised to four feet four inches, and those who succeed in jumping at this height receive a rating of 75

per cent. Finally the rope is raised to a height of four feet eight inches, and those who succeed in jumping over it at this height receive a rating of 100 per cent. In this test again those who fail to clear the rope at four feet eight inches will receive a mark varying from 75 to 100 per cent., according to the relative value of their jump. The agility test is given a weight of four in the physical examination. All of the tests in the physical examination are given a combined weight of thirty, and the sum of the products obtained by multiplying the percentage received by the candidate on each test by the relative weight attached to the test is divided by thirty. Furthermore, since the strength of the candidate as determined by the marks received by him in the physical tests is given a weight of two in the examination for the position of patrolman, the quotient obtained by dividing by thirty is multiplied by two to secure the candidate's standing in the strength tests.

At the conclusion of the strength tests the candidate is again required to strip for the taking of the measurements. These measurements are the girth of chest after a normal expiration and the girth of chest after a forced inspiration; each of these measurements is given a weight of one in the examination. The girth of waist taken at the narrowest part of the trunk is given a weight of five in the examination. The girth of the thigh at its widest point is given a weight of two and the girth of the calf is also given a weight of two. The girth of the upper arm taken with the arm flexed and the fist clenched at the highest point of the biceps is given a weight of two, and the girth of the forearms is also given a weight of two. The depth of the chest taken with the curved-arm calipers on the line of the nipples is given a weight of one and the depth of the abdomen taken on the line of the navel is also given a weight of one. In the case of each of these measurements, all of which are recorded in centimeters, a certain measurement is given a weight of 100, the perfect measurement

varying with the size and weight of the subject, and smaller measurements are given lower percentages.

The percentage given to each measurement is multiplied by the weight attached to that particular measurement in the examination, and all of these products are added. To the sum of these products is added the percentage which is given to the subject on his general muscular condition, to which is given a weight of nine in the examination. This percentage for muscular condition is determined by a careful inspection of the candidate and by an examination of his performances in the physical strength tests. All of these products are added and the sum divided by thirty, the resulting percentage being the percentage of the candidate in the measurements. The percentage received in the strength tests multiplied by two is added to the percentage received in the measurements, and after the sum has been divided by three the quotient is the percentage which the candidate receives on his physical examination. This percentage is, however, not communicated to the candidate until after he has passed the mental examination, although if the percentage is so low as to cause the rejection of the candidate he is so notified and is not called for the mental examination at all.

One point should be brought to the attention of the candidates with considerable emphasis, and that is that it is extremely desirable and almost indispensable that the candidates in addition to being in excellent physical condition must, in order to obtain a good percentage in the physical examination, be acquainted with the tests before they come to the examination hall. The strongest man does not always get the best rating in the physical examination, although he sometimes makes an excellent performance. The best ratings are obtained by the man who is most familiar with the tests. Attendance at one of the civil-service preparatory schools will assist the candidate considerably in raising his percentage in the physical examination, but such attendance at private schools is

TABLE 13. PHYSICAL EXAMINATION FOR PATROLMEN
RATING SCALE.

<i>I. Strength of Back.</i>			<i>II. Strength of Upper Arms.</i>		
WEIGHT: 3 OUT OF 30.			WEIGHT: 5 OUT OF 30.		
Rating on Dynamometer	Mark of Examiner	Product	Number	Mark of Examiner	Product
290	100	300	20	100	500
280	96.5	289.5	19	95	475
270	93.1	279.3	18	90	450
260	89.6	268.8	17	85	425
250	86.2	258.6	16	80	400
240	82.7	248.1	15	75	375
230	79.3	237.9	14	70	350
220	75.8	227.4	13	65	325
210	72.4	217.2	12	60	300
200	68.9	206.7	11	55	275
190	65.5	196.5	10	50	250
180	62.1	186.3	9	45	225
170	58.6	175.8	8	40	200
160	55.1	165.3	7	35	175
150	51.7	155.1	6	30	150
140	48.2	144.6	5	25	125
130	44.8	134.4	4	20	100
120	41.3	123.9	3	15	75
110	37.9	113.7	2	10	50
100	34.4	103.2	1	5	25

<i>III. Pectorals.</i>		<i>IV. Adductors.</i>	
WEIGHT: 1 OUT OF 30.		WEIGHT: 1 OUT OF 30.	
Rating on Dynamometer	Mark of Examiner	Rating on Dynamometer	Mark of Examiner
90	100	100	100
85	94.3	95	95
80	88.8	90	90
75	83.3	85	85
70	77.7	80	80
65	72.1	75	75
60	66.6	70	70
55	61	65	65
50	55.5	60	60
45	50	55	55
40	44.4	50	50

V. <i>Strength of Legs.</i>			VI. <i>Strength of Fore Arms.</i>		
WEIGHT: 4 OUT OF 30.			WEIGHT: 3 OUT OF 30.		
Rating on Dynamometer	Mark of Examiner	Product	Rating on Dynamometer	Mark of Examiner	Product
450	100	400	170	100	300
440	97.7	390.8	165	97	291
430	95.5	382	160	94.1	282.3
420	93.3	373.2	155	91.1	273.3
410	91.1	364.4	150	88.2	264.6
400	88.8	355.2	145	85.2	255.6
390	86.6	346.4	140	82.3	246.9
380	84.4	337.6	135	79.4	238.2
370	82.2	328.8	130	76.4	229.2
360	80	320	125	73.5	220.5
350	77.7	310.8	120	70.5	211.5
340	75.5	302	115	67.6	202.8
330	73.3	293.2	110	64.7	194.1
320	71.1	284.4	105	61.7	185.1
310	68.8	275.2	100	58.8	176.4
300	66.6	266.4	95	55.8	167.4
290	64.4	257.6	90	52.9	158.7
280	62.2	248.8	85	50	150
270	60	240	80	47	141
260	57.7	230.8	75	44.1	132.3
250	55.5	222	70	41.1	123.3
240	53.3	213.2	65	38.2	114.6
230	51.1	204.4	60	35.2	105.6
220	48.8	195.2	55	32.3	96.9
210	46.6	186.4			
200	44.4	167.6			

VII. <i>Traction Pull.</i>			VIII. <i>Strength of Fore Arms.</i>	
WEIGHT: 3 OUT OF 30.			WEIGHT: 4 OUT OF 30.	
Rating on Dynamometer	Mark of Examiner	Product	Mark of Examiner	Product
60	100	300	100	400
55	91.6	274.8	85	340
50	83.3	249.9	75	300
45	75	225	60	240
40	66.6	199.8	50	200
35	58.3	174.9		
30	50	150		
25	41.6	124.8		

IX. Dumb Bells.		X. Abdominal Muscles.	
WEIGHT: 3 OUT OF 30.		WEIGHT: 3 OUT OF 30.	
Mark of Examiner	Product	Mark of Examiner	Product
100	300	100	300
95	285	95	285
90	270	90	270
85	255	85	255
80	240	80	240
75	225	75	225
70	210	70	210
65	195	65	195
60	180	60	180
55	165	55	165
50	150	50	150
45	135	45	135
40	120	40	120
35	105	35	105
30	90	30	90
25	75	25	75

expensive and frequently beyond the means of the candidate. It is submitted that the various recreation centers maintained by the department of education of the municipal government ought to teach their students what will be expected of them when they come to the civil-service examining room. These recreation centers all have gymnasias and gymnasium instructors, and if some arrangement could be made whereby these gymnasium instructors could visit the gymnasium of the civil-service commission and become acquainted with the instruments used there, the city could through its department of education without any additional expense assist candidates for the position of patrolman in preparing themselves for the physical tests. This work would have considerable educational value to the students at the recreation centers, and it would enable candidates for the position of police patrol-



LIEUTENANT WILLIAM H. WARD
 "Courteous and Tactful Police Officer, Possessing Unusual Ability for Handling Large Bodies of Men"



INSPECTOR JAMES E. DILLON
 "Excellent Drillmaster, Superior Disciplinarian, Efficient Police Officer"
 NEW YORK POLICE OFFICERS



SERGEANT BENJAMIN MALLAM
 "Expert Motor-Cyclist, Subordinate Police Officer of Superior Intelligence and Ability"

man to secure useful assistance in preparing for the physical examination, without any expense to themselves and without any additional expense to the department of education.

Those who have succeeded in passing the medical and the physical examination are notified by mail to present themselves for the written examination, about ten days before the date set for the examination. Those who have not received a passing mark in the physical examination are not so notified and are not able to ascertain their percentage on the competitive physical examination until all of the marks of the written examination have been compiled. Failure to receive a notice to appear for the mental examination is presumptive evidence of the candidate's failure at the physical examination. Yet the notice to appear for the mental examination may have been mis-carried in the mails and it is therefore advisable for any candidate who fails to receive a notice to make inquiry at the office of the Civil Service Commission for the purpose of making certain that he has failed in the physical examination. The notice to appear directs the candidates to present themselves at 9.45 A.M. on the seventh floor of the Merchants' Association Building at 66 Lafayette Street. The candidates are assembled in the corridor on the seventh floor until the signal is given for them to go up the single flight of stairs to the examining room on the eighth floor. Before reaching the stairs the candidates must present their notice to appear to the policeman at the door, and when they enter the examining room on the eighth floor they must again present the notice to the monitor at the door. Candidates should avoid crowding and pushing on the stairs, because a seat is reserved in the examining room for each candidate who is notified to appear; the seats given to the candidates who arrive first are not from every point of view the most desirable, and the policeman at the door, who has orders to prevent crowding under all circumstances, is likely to treat harshly those who persist in crowding unduly.

When the candidates arrive in the examining room a seat is assigned to each by the monitor in charge of the seating of the candidates. Candidates must take the seats pointed out to them by the monitor; there is no exception to this rule. They must also refrain from all conversation as soon as they have entered the room. Candidates will find on their tables a typewritten or printed sheet of instructions, a blotter, and writing paper. They may place on their tables in addition to this material a bottle of ink, a penholder, pens, an eraser, and their notice to appear. Candidates must not place anything else on their tables. It is especially forbidden to place any blank paper, any blotter, or any books which the candidate may bring with him on the table. The monitors will furnish to the candidates as much paper and blotters as they may desire and they are therefore forbidden to use any paper other than that furnished by the examiners. Candidates should not bring with them into the examination room any books or papers containing information which may be of assistance to them in answering the questions, and if they have brought such books or papers with them, they must turn them over to the monitor before the beginning of the examination.

While the candidates are waiting for the examination to begin they should read carefully the printed or typewritten instructions found on their tables. They are bound by these rules, as well as by any others which may be given to them orally at the examination. No paper will be rated if the candidate's name or any other identifying mark is placed upon it. The candidate must be sure that he receives all the question sheets in the proper order, as he is held responsible for omissions and errors. The candidate's examination number is to be written on the stubs of the examination sheets only and not on the examination sheets. All the other blanks at the top of each examination sheet are to be filled out by the candidate. The candidate must not leave any unfinished papers on his desk. If he leaves the room while engaged on a

paper, unless ordered to do so by a monitor, it will be taken up and permission will not be given to finish it. No candidate can leave his seat without permission. Permission will not be given to candidates to go to the toilet until they have finished the question paper on which they are engaged. In a case of extreme emergency the facts should be stated to the monitor who will present them to one of the examiners for consideration. No extra time will be granted on account of absence from the room for any reason whatever.

The time for luncheon will be announced at the beginning of the examination. Candidates can secure from the monitors as much writing paper as they may require. All answers must be written on the ruled paper supplied by the examiners, and answers must be written neither on the question sheets nor on any other paper. All questions must be answered in ink. Pencil is not allowed except for scratch work. Before leaving the room candidates should destroy all scratch paper and hand in all question sheets. Candidates are not permitted to take away from the examining room anything which they did not bring into the room. Candidates are not permitted to obtain help from any source, written, printed, or oral, except from an official of the commission. Any candidate who talks to his neighbor for any purpose whatever after the examination has begun will be dismissed from the room. It is immaterial whether he has finished his examination or not at the time of such communication. Candidates will also be dismissed if they read or copy the work of another candidate or permit him to read or copy their own work; also if they make any signs or try to get or to give information of any kind during the examination. This is the strictest rule of the civil-service examiners, and no candidate who is guilty of violating this rule will be permitted to finish his examination. If any explanations are to be made to the candidates they will be made when practicable to the candidates as a whole.

The first paper which is given to the candidates is the preliminary sheet, together with an envelope in which this preliminary sheet is to be placed after it has been filled out. This preliminary or identification sheet is not a part of the examination and is not rated. It should therefore be filled out as quickly as possible, so that the candidate may not waste any of his time on this paper. This sheet contains blanks in which the candidate must write his name and some other data of a personal nature by which he can be identified. It also contains in the upper left-hand corner a number written with a blue pencil which is the candidate's examination number. This examination number should be written by the candidate on his notice to appear, on the brown envelope in which the preliminary sheet is to be placed, and also on the candidate's blotter for future reference. This examination number must be placed on the stub of every examination sheet handed in by the candidate but should not be written on the examination papers themselves. After the whole preliminary sheet has been filled out the candidate must sign his name and address at the bottom of the sheet and then enclose it with his notice to appear in the yellow envelope provided for that purpose. This envelope must be sealed by the candidate, the blanks on the back filled out and handed to a monitor. On the back of the envelope should be written the word "Patrolman," the date of the examination, and the examination number of the candidate.

The written examination for the position of police patrolman consists of four subjects, viz.: Memory test, two points, government, five points, knowledge of localities, one point, and arithmetic, two points. Candidates are required to receive an average of not less than seventy per cent. on the four papers taken together, and they must receive at least twenty per cent. on each of the four papers, otherwise the other papers will not be rated at all. The memory test and the government paper must be completed in the morning session before one o'clock, and the localities

paper and the arithmetic paper are not given out until the afternoon session which begins at one o'clock. Candidates who wish to take a recess for luncheon may do so after handing in their government paper and before receiving their localities paper, but those who leave the examination room must be back in their seats before half past one. Those who return after half past one will not be permitted to finish the examination. If any candidates wish to withdraw they cannot do so in the morning session before eleven o'clock nor in the afternoon session before two o'clock.

While the memory test is being given all the candidates must stand, and they are not permitted to take any notes during the reading of the test. The memory test consists of writing down from memory the substance of a short order which is read twice to the candidates. The spelling and the handwriting of the candidates are not rated on this paper and it is advisable to write the order directly on the white paper with the stub, as soon as the candidates are permitted to sit down and write. In this way the order will be perfectly fresh in the minds of the candidates, and they will succeed in reproducing more of the order than if they write it in lead pencil first and then copy it. Each candidate should, however, follow whatever method he considers best, as both methods are permitted by the civil-service regulations.

As soon as the memory test has been handed to the monitor, the monitor will give the candidate another white sheet of paper bearing a stub and the paper containing the questions on the subject of government. The candidate should read this question paper very carefully before beginning to answer the questions. This question paper generally contains five questions and each question is usually divided into several subdivisions. Candidates frequently find it convenient to use a separate sheet of paper for each question, numbering their papers 1, 2, 3, 4, 5, to correspond to the number of the question, and

divide each sheet of paper into five parts which they can letter a, b, c, d, e, to correspond to the several subdivisions of the questions. They can then answer the questions in the order which is most convenient for them, being careful however, that the number and letter of the answer corresponds to the number and letter of the particular subdivision of the question to which it relates. The candidate should answer first the questions which he considers easiest to answer, and he can then devote whatever time remains to the answering of the questions which he considers more difficult. He should not hurry in writing his answers. Candidates are given plenty of time in which to answer the questions and they should remember that the men who are finished first seldom secure a place on the eligible list. Candidates should do their work carefully. After all the questions have been answered the candidate should read over the questions and his answers to them again. He should make certain that he has answered every part of every question and that his answers are numbered and lettered to correspond to the particular part of the question to which each relates. Before he hands in his answers to the monitor he should write on the back of the last sheet the number of sheets that he has written, and then he should hand in the answers and the question sheet to the monitor. The question sheet must be turned in with the answers and the candidate is not permitted by the regulations of the Civil Service Commission to make any copy of the questions or of his answers to them.

If the candidate so desires he is permitted to work on his government paper until one o'clock and then begin at once on his localities paper. It is to be strongly advised, however, that candidates should take a rest between the government paper and the localities paper, however brief this recess may be. If the candidates do not care to take any luncheon they should at least go downstairs and take a breath of fresh air. This will help them in their work of

the afternoon. Candidates should refrain from entering saloons during the recess; it will injure their chances of doing good work during the afternoon session. At the beginning of the afternoon session the monitors will ask the candidates with which borough of the city each candidate is best acquainted. Each candidate is permitted to answer questions relating to any one of the five boroughs, but he is not allowed to answer some questions relating to one borough and some relating to another. All of the questions answered on the localities paper must relate to a single borough. Candidates will naturally select the borough in which they reside or with which they are best acquainted.

When the localities paper is handed in the monitor will give the candidate the arithmetic questions. The problems may be worked out first in lead pencil and then copied on the ruled sheets in ink. Care should be exercised, however, that all the figuring is copied on the ruled sheets, since otherwise the candidate will not receive full credit for the correct answer. Here again the candidate should be cautioned to do his work slowly and carefully. No credit is given for speed in any part of the examination for police patrolman, and it is the slow and careful man who will get the highest place on the eligible list. After the arithmetic paper has been handed in the candidate is at liberty to leave the examination room for the day. And he should be very careful not to talk to anybody while he is in the room. If he talks to any candidate even after he has finished all the papers of the day, his papers will be cancelled and not rated. He must talk to no one while he is in the examination room, and after the examination has been completed he should leave the room at once and without delay.

While in the examination room the candidates are under the charge of men monitors who walk up and down the aisles and are distinguished by the metal badges which they wear on the lapels of their coats. All orders given by these

monitors must be obeyed by the candidates without question. The women monitors who are seated at the tables in each section are also instructed to supervise and care for the candidates, and their orders are to be respected by the candidates to the same extent as the orders of the men monitors. All unnecessary conversation with the monitors should be avoided however. The monitors are forbidden to assist the candidates in any way, and they are not even permitted to interpret the questions for the candidates. If the question paper is indistinctly printed the monitor will upon application give the candidate a paper which is more distinctly printed or tell the candidate the spelling of any word on the question paper. If the candidate believes that he is being treated unjustly by any monitor he should request the monitor in a polite manner to grant him permission to speak to one of the examiners. Such a request will generally be granted and the difficulty can thus be adjusted by an examiner.

TABLE 14.—COMPUTATION OF PATROLMAN'S AVERAGE.

	Mark of Examiner.	Weight.	Product.		Mark of Examiner.	Weight.	Product.
Physical Condition.	100	1	100	Government	100	5	500
Strength Tests *...	100	2	200	Memory Test	100	2	200
				Arithmetic	100	2	200
		3	300	Localities	100	1	100
Physical Average			100			10	1000
							100
							100
						2	200
							100

* For the relative weight attached to each of the ten strength tests, please see Table 13, p. 488 *supra*.

MUNICIPAL CIVIL-SERVICE COMMISSION, NEW YORK.

EXAMINATION FOR PATROLMAN.¹*Memory Test*

1. Look for a negro, James Jackson, known as Jimmy the Buck,

¹ For the questions asked of applicants for the position of police

wanted for assault and disorderly conduct; 30 years old, 6 feet 1 inch, weighs 230 pounds, one joint on left forefinger gone; derby hat, blue suit, tan shoes; walks with a slight limp.

2. Look for an Italian, John Castor, known by many other names; 5 feet 6 inches; wore blue flannel shirt; ears pierced for rings; scar from ear to mouth; brown coat, greasy trousers; wanted for writing "Black Hand" letter.

3. Look for Thomas Williams, deserter from United States warship *Boston*, 5 feet 10, black hair, clean shaven, 30 years old, tattoo on left forearm, one joint gone on right forefinger.

4. Look in pawnshops for breastpin stolen from Hotel Astoria, Thursday night, about 7 o'clock, one large diamond in center, surrounded by pearls and rubies; value \$1000.

5. Look for Jane Roberts, insane woman, escaped from Bellevue Hospital, 50 years old, 5 feet 2, gray hair, blue eyes, black skirt, blue shirtwaist, speaks with an Irish brogue.

Government

1. What kind of official (national, State, city, county or borough) is a Congressman; Sheriff; Corporation Counsel; Assemblyman; Superintendent of Sewers?

2. What city department has control of Municipal ferryboats; Suits against the city; Queensboro Bridge; Burial permits; Licensing of engineers in charge of steam boilers?

3. To what city department should complaints be made to remedy each of the following: (a) Stagnant water in an empty lot; (b) accumulation of rubbish in the cellar of an apartment house; (c) a wall of a factory is dangerously cracked; (d) a dangerous hole in asphalt pavement?

4. Name the various grades in the uniformed force of the Police Department from the lowest (patrolman) to the highest and give one important duty, peculiar to the position, performed by the officers of each grade.

5. If you were a patrolman how would you handle the following cases:

(1) A woman says she has been abandoned by her husband and that she and her children are starving?

(2) A citizen complains that he cannot sleep because the family in the flat overhead sing and play the piano into all hours of the night?

(3) A tenant complains that the janitor, to save expense, won't allow any lights in the hallways after 8 o'clock at night?

patrolman in twelve of the largest American cities, *cf. The Chief, Journal of the Civil Service*, xii, Nos. 290, 291, 292.

6. Who may appoint a New York Supreme Court Justice, a City Magistrate, a Collector of the Port of New York, a Commissioner of Public Works, a Receiver of Taxes?

7. To what bureau or department of the State or City Government should a man apply if he wants: (1) Permit to carry a revolver; (2) a pawnshop license; (3) permit to close up a street temporarily; (4) a newsboy's permit; (5) permit to parade?

8. If there were a break in a water main which caused a cave-in of the roadway and weakened the foundations of the surrounding houses, name four city departments or officials who would be concerned, stating briefly the jurisdiction of each in the matter.

9. Name two courts to either of which a person may apply to take out citizen's papers.

10. Name the court in which a person would be tried for: (a) Intoxication in the public streets; (b) burglary; (c) selling intoxicants on Sunday; (d) breaking open a United States letter box; (e) cruelty to a horse.

11. Name two courts in the county in which you live that deal entirely with criminal cases and two that deal with civil cases, explaining at the same time what you mean by civil and what by criminal cases.

12. From whom must a person obtain a license to manufacture cigars; to compound physicians' prescriptions; to run an express wagon?

13. State one way in which the National Government, the State Government, and the City Government are each concerned in the sale of liquors at retail.

14. Does the City of New York, the County of New York, the State of New York, or the United States Government control the following offices: Register's Office, Post Office, Board of Examining Plumbers, Excise Department, Public Service Commission?

15. What officer, board, or commission has control of the following: Manufacture of gas, removal of garbage, disinfection of residences, laying out of new subways, detention of immigrants?

16. To what official or department of the City Government should a person apply to obtain a permit or license for each of the following: To hold a masked ball; to conduct a pawnbroking business; to manufacture fireworks; to conduct a poultry slaughterhouse; to hold religious services in the public streets?

17. Name three different classes of persons in addition to the regular members of the Police Department who may make arrests in New York City, stating in each case the conditions under which such arrest may be made.

18. In what court would the following be tried: A dispossess

case; a divorce case; a case of drunkenness; a case involving the theft of ten dollars; a burglary case?

19. Name the court which disposes of each of the following cases: Burglary, counterfeiting, desertion from the Army, homicide, petit larceny.

20. What government (City, State, or National) pays for the erection of the following: A custom house in Manhattan, an armory in the Bronx, a Brooklyn high school, the Blackwell's Island Bridge, a prison at Sing Sing (Ossining)?

21. What is the difference between a primary election and a general election? When is each generally held?

22. What is the legislative body called in the Federal Government; in the State Government; in the Municipal Government?

23. What is meant by an ordinance?

24. What kind of a public officer is a Coroner? Briefly, what are his duties and how is he chosen?

25. Specify one, at least, of the duties of the Police Commissioner, District Attorney, Coroner, Register, Corporation Counsel.

Localities

1. Name the station on the elevated railroad or the subway which is located nearest to each of the following:

(1) St. Luke's Hospital.

(2) Harlem Hospital.

(3) St. Patrick's Cathedral.

(4) The City Morgue.

(5) Headquarters, Society for Prevention of Cruelty to Animals.

(6) Headquarters, Society for Prevention of Cruelty to Children.

(7) Children's Court.

(8) Appellate Division of the Supreme Court.

2. How would you advise a stranger to go:

From the Hall of Records to the Custom House?

From the Custom House to the Museum of Natural History?

From the Museum of Natural History to the Times Building?

From the Times Building to the nearest Long Island ferry?

From the Long Island ferry to the County Court House?

(In each case give rapid transit route if possible.)

3. What lines of steamboats or steam railroads have a station, ferry, or pier at or close to:

Christopher Street and North River?

One Hundred and Fifty-fifth Street and Eighth Avenue?

Foot of West Forty-second Street?

One Hundred and Twenty-fifth Street and Park Avenue?
Canal Street and North River?

4. What is the quickest way of traveling by public conveyance from Police Headquarters to each of the following:

- (1) Columbia University;
- (2) Municipal Civil Service Commission;
- (3) Hall of Board of Education;
- (4) Custom House;
- (5) National City Bank;
- (6) National Academy of Design;
- (7) Headquarters of New York Telephone Company;
- (8) Bellevue Hospital?

5. Locate each of the following and state which is the subway station nearest to it:

Manhattan Opera House;
Plaza Hotel;
Singer Building (new);
St. John's Cathedral;
Fort George.

6. If stationed at the Cortlandt Street Ferry, how would you direct strangers to get to the following places by the quickest and most convenient route:

- (1) The Hotel Astor (uptown);
- (2) The Queensboro Bridge;
- (3) The Herald Building;
- (4) The Metropolitan Life Building?

7. Name six lines of public transportation by which a person may travel from 42d Street to the Battery and give northern terminal of each line.

8. What four lines of street cars intersect one another at 145th Street and Amsterdam Avenue? Give terminals of each line.

9. Name the railway lines which a passenger might take at Times Square or within one block of Times Square.

10. If you were a policeman stationed at the West 42d Street Ferry, how would you direct strangers to get to the following: Wanamaker's, Siegel Cooper's, Bloomingdale's, Stern Brothers, Macy's. Tell in each case where the store is.

11. By what line of public transportation could you travel most rapidly from the Swamp to Bellevue Hospital; from Bellevue Hospital to Chinatown; from Chinatown to Windsor Arcade; from Windsor Arcade to Newspaper Row; from Newspaper Row to New Public Library.

12. If you were a policeman stationed at the Desbrosses Street Ferry, how would you direct strangers to get to the following: the

Waldorf Astoria, the Fifth Avenue Hotel, the St. Regis, the St. Denis, the Ansonia. Tell in each case where the hotel is.

13. Through what streets or avenues would you pass in going on foot from Knickerbocker Hotel to Manhattan Hotel, New York Produce Exchange to Metropolitan Museum of Art, New Times Building to Old Times Building, Singer Building to University Heights Bridge, Knickerbocker Trust Co. Building to Manhattan Opera House, New York Hospital to Metropolitan Opera House, New York Custom House to Old Custom House Building, Hall of Records to New Police Headquarters Building, Knickerbocker Theatre to Manhattan Square, New York University to Museum of Natural History, New College of the City of New York buildings to old New York College buildings, Plaza Hotel to St. John's Protestant Episcopal Cathedral?

14. Name the subway station that is nearest to each of the following and in each case state how far away the station is: Wanamaker's Department Store, Broadway Central Hotel, Tiffany's New Store, Delmonico's Uptown Restaurant, Hanover Square Station of Elevated Railroad.

15. By what line of public transportation could you travel most rapidly from New York Aquarium to San Juan Hill; from San Juan Hill to the Curb Stock Exchange; from the Curb to Little Italy uptown; from Little Italy uptown to New York Bible House; from the New York Bible House to the Swamp?

16. Give the location of each of the following: Gansevoort Market; Tribune Building; Sheriff's Office; West Shore Ferry uptown; United States Immigration Station.

17. Give the location of each of the following: Jefferson Market; World Building; Stock Exchange; Ferry to 39th Street, Brooklyn; District Attorney's Office.

18. Give the location of each of the following: Fulton Market; Herald Building; Health Department; Morgue; Erie Railroad Ferry uptown.

19. Through which streets between 59th Street and 110th Street can you drive a heavy truck from Fifth Avenue to Eighth Avenue.

20. Name all the streets on which street-car lines cross Broadway between Union Square and the Post Office.

21. Give the names of all the avenues which Broadway crosses from the Battery to 125th Street and the street at which it crosses each avenue.

Arithmetic

1. A coal dealer made the following sales in one week: Monday,

2,567 tons; Tuesday, 1,849 tons; Wednesday, 2,379 tons; Thursday, 2,099 tons; Friday, 1,653 tons; Saturday, 2,998 tons. What was the entire amount sold?

2. At a debating society there were 897 votes in favor of a resolution and 1,212 against. What was the majority against the resolution?

3. An average of 2,847 persons crossed a certain ferry for 305 days. How many in all were carried?

4. If there are 3200016 bushels of potatoes sent from a certain district to market by 7824 growers, what is the average number of bushels sent by each grower?

5. In a certain library there are in one case 3,275 books; in the second, 1,579 books; in the third, 3,781; in the fourth, 2,169; in the fifth, 1,874; in the sixth, 3,269. How many books are there in all?

6. At a subway station in one day 765 passengers boarded local trains and 1,122 boarded express trains. How many more went by express than by local trains?

7. An average of 3,814 persons pass a certain corner on Broadway every day. How many will pass in 364 days?

8. If 6,346,552 gallons of water are consumed within a given time by 8,964 persons, what is the average number of gallons used by each person?

9. The population of the largest ten cities of the United States in 1890 was: New York 1513501, Chicago 1098576, Philadelphia 1044894, Brooklyn 804377, St. Louis 460357, Boston 448477, Baltimore 434451, San Francisco 297990, Cincinnati 296309, New Orleans 241995. What was the total?

10. The cotton crop of the United States for the ten years beginning with 1880 and ending with 1889 was as follows: 5757397 bales, 6589329 bales, 5345845 bales, 6992234 bales, 5714052 bales, 5669021 bales, 6550215 bales, 6513624 bales, 7017707 bales, and 6935082 bales. What was the entire product?

11. If a soldier's rations are 48 oz. per day how many ounces would an army of 21250 men require for 64 days?

12. 307184 ties were used in building one railroad and 256652 in constructing another. How many more did the first require than the other?

13. The Cincinnati post-office mailed 241753 letters on Saturday which was 35665 more than were mailed on Friday. How many were mailed on Friday?

14. Eighty-nine laborers earned \$48060 in 12 months. What was the average monthly wages of each?

15. A wholesale house imported 324 bolts of broadcloth each

containing 39 yards, which was sold at 375 cents per yard. Find the selling price.

16. What is the value of 769 bales of cotton each weighing 496 pounds at 27 cts. a lb?

17. By the census of 1890 the population of New York State was 5981934, of Pennsylvania 5248574, of Illinois 3818536, of Ohio 3666719, of Missouri 2677080, of Massachusetts 2233407, of Texas 2232220, of Indiana 2189030, of Michigan 2089792, and of Iowa 1906729. Find the total population of the ten states.

18. Proctor & Gamble loaded 37 cars with 1065600 lbs. of soap allowing 64 lbs. to the box. How many boxes did each car hold?

19. A planter sold 729 hhds. each containing 63 gals. of molasses for 2571912 cts. What was its value per gal?

20. The area of the globe is 196096060 sq. miles, of which 143621181 sq. miles is water. How much land is there?

SECTION II. EXAMINATION FOR SERGEANT

Medical Examination—Examination of Abdomen—Eyesight—Need of Examinations—Hardships—Rating of Record—Rating Scale—Seniority—Rewards—Penalties—Written Examination—Monitors—Undesirable Applicants—College Students—Method of Choice—Examiners—Instructions—Candidate's Identity—Murray System—Explanation—Concealment of Identity—Question Papers—Prevention of Leakage—Distribution of Questions—Corrupt Practices—In Toilet Rooms—Computation of Sergeant's Average—Specimen Examination Questions—Rules and Regulations—Administration—Laws and Ordinances—Report.

The medical examination for promotion from the position of patrolman to that of sergeant is much simpler than the medical examination to which applicants for appointment as police patrolmen are subjected. The patrolmen who apply for examination for promotion are notified from the office of the Chief Inspector on what day they are to visit the examining room of the Civil Service Commission for medical examination. When they arrive at the examining room they are requested to show the cards which they have received from the Chief Inspector and which constitute their authority to appear, and they must then write their name, their home address, and their shield number upon

one of the medical examination blanks which will be supplied to them by the examiner in charge of the examination. In the case of patrolmen who hold a detective shield in addition to a patrolman's shield both shield numbers should be written on the blank. The Chief Inspector's card of admission is then pinned on the back of the examination blank, and the candidate goes into the dressing room where he removes his coat, vest, and hat, takes out his baton and revolver, and unbuttons his suspenders and trousers.

When the candidate enters the medical examination room he is taken behind a screen by one of the medical examiners and is requested to pull up his shirt and undershirt and drop his trousers and drawers so that the examiner may inspect his abdomen and his genitalia. The abdomen is examined for indications of obesity and for hernia and the genitalia for evidence of the presence of venereal disease. A hernia which is properly supported by a truss will not cause the rejection of the candidate, but a candidate suffering from a hernia unsupported by a properly fitting truss or a hernia which is so serious as to require surgical treatment will be rejected by the examiner. Candidates are not rejected because of excessive weight or obesity. Some of the heaviest men on the police force are in excellent physical condition, and there is no reason why such men should be rejected. A man is rejected because of his excessive weight only if he is poorly developed physically; if his excessive weight is due to an accumulation of fat rather than to an excessive amount of muscular tissue; if the excessive deposit of fat in the abdominal region is so great that the candidate cannot expand his chest properly. In other words the rejection of candidates for excessive weight should be ascribed to insufficient chest expansion, rather than to obesity.

After the candidate has passed the first medical examiner, he passes on to the second examiner who tests his eyesight. The test of vision in the case of this promotion examination is also less severe than in the case of applicants for appoint-

ment as police patrolmen. The eyes of the candidate are not tested separately and small deviations from the normal are ignored by the examiner. If the candidate can read with both eyes at a distance of twenty feet what should normally be read at a distance of thirty feet he is passed, and if he can read with both eyes at a distance of twenty feet what should normally be read at a distance of forty or fifty or even sixty feet his defective vision is recorded, but such defective vision will probably not cause his rejection. This test of the eyesight of the candidate completes the medical examination of candidates for promotion to the position of sergeant of police.

From a theoretical consideration of the subject this promotion examination presents many interesting problems. It would seem that since the duties of the sergeant's position are quite similar to those of the patrolman's position, every man who is physically fit to be a patrolman is physically fit to be a sergeant, and every man who is not physically fit to be a sergeant is not physically fit to be a patrolman. In other words, if the police department would subject its patrolmen to periodical physical examinations with a view to retiring those who become physically unfit for service, it would not be necessary to subject applicants for promotion to the position of police sergeant to any medical examination. But since in most cities police patrolmen are not subjected to any periodical physical examination, the Civil Service Commission must, by subjecting applicants for promotion to a medical examination, protect the city from the danger of having men who are physically unfit for the performance of police duty promoted to the higher rank of police sergeant with its correspondingly higher pay. Since the number of applicants for promotion is always largely in excess of the demands of the service, such protection against the promotion of the unfit is both desirable and necessary. In a recent examination for promotion to the position of police sergeant in New York City, one candidate was found by the physicians to be suffering from

incipient paresis, and about a dozen candidates were found to be unable to read at a distance of twenty feet with both eyes, what should normally be read at a distance of 250 feet. Such men are almost blind and ought to have a little boy guide them along the street for their own protection. When we consider that these men are performing regular police patrol duty in the crowded sections of the city and carry a loaded revolver in their pockets at all times, we can appreciate the grave dangers resulting from the fact that policemen are not subjected to periodical physical examinations.

And yet this medical examination for promotion has its pathetic side also, and it is this pathetic side which should cause the medical examiners to be as lenient as possible in their examination, and particularly in their examination of the eyesight of the candidates. In the promotion examinations for lieutenant and captain, the candidates are permitted to wear eye-glasses because these higher officers, whose duties are performed principally in the station-houses, are permitted by the regulations to wear eye-glasses. But candidates for the position of police sergeant are not permitted to wear eye-glasses because police sergeants, whose duties are performed principally on the street, are not permitted by the regulations to wear eye-glasses. Accordingly, if a policeman's eyesight becomes impaired a few years earlier he will be debarred from promotion to the higher ranks of the department, while if his eyesight becomes impaired a little later he will not be so barred. It is principally on this account that the eyesight test should be made as lenient as possible, and nobody should be rejected for defective vision in this examination, unless his vision is so defective as to make it dangerous for him to attempt to perform the duties of a police officer. The medical examiners ought also to bear in mind, if possible, that men whose vision is not perfectly normal may be able to perform good police duty at the central office or in other semi-clerical positions, and that since promotion to

the rank of sergeant is the only way in which these men can secure the higher salary which they have earned by long years of faithful service, such promotion should not be denied them unless such a denial is absolutely necessary. Furthermore, the examination for promotion should be made so lenient that the Civil Service Commission can certify to the police department that every man who has been rejected by the medical examiners as being unfit for promotion is also unfit for retention on the police force as a patrolman and should be compulsorily retired by the police department.

In the examination of patrolmen for promotion to the rank of sergeant the medical examination is merely a pass examination. The candidates are given no percentage on the medical examination, and all candidates who pass the surgeons are on an equal footing. Those who fail to pass the surgeons are not permitted to go on with the rest of the examination. The written examination and the records of the candidates are given equal weight; the written examination counts fifty per cent. and the record of the candidate counts fifty per cent. The written examination consists of four subjects,—questions on the rules and regulations of the department with a weight of three points out of ten, questions on the practical administration of the police department with a weight of two points out of ten, questions on the laws and ordinances with a weight of three points out of ten, and the writing of a report on an assigned police subject with a weight of two points out of ten. The percentage received by a candidate on each of these subjects is multiplied by the weight attached to the subject and the sum of these products is divided by ten to obtain the percentage of the candidate on the written examination. This percentage on the written examination is added to the percentage which the candidate receives on his record as explained in detail below and the resulting sum is divided by two, to obtain the final average of the candidate.

Police Administration

TABLE 15
SCALE FOR RATING RECORDS OF SERGEANTS

DATE OF APPOINTMENT									
Jan. 1-Jan. 3									
1895 96%	1896 95%	1897 93%	1898 91%	1899 89%	1900 87%	1901 85%	1902 83%	1903 81%	1904 79%
Jan. 4-April 3									
1895 96%	1896 94½%	1897 92½%	1898 90½%	1899 88½%	1900 86½%	1901 84½%	1902 82½%	1903 80½%	1904 78½%
April 4-July 3									
1895 96%	1896 94%	1897 92%	1898 90%	1899 88%	1900 86%	1901 84%	1902 82%	1903 80%	1904 78%
July 4-Oct. 3									
1895 95½%	1896 93½%	1897 91½%	1898 89½%	1899 87½%	1900 85½%	1901 83½%	1902 81½%	1903 79½%	1904 Ineligible
Oct. 4-Dec. 31									
1895 95%	1896 93%	1897 91%	1898 89%	1899 87%	1900 85%	1901 83%	1902 81%	1903 79%	1904 Ineligible
ADD									
Honorable Mention and Medal.....								4%	
Honorable Mention.....								3%	
Commendation.....								1%	
SUBTRACT									
One Day's Fine Jan. 1, 1898—May 31, 1903.....								½%	
One Day's Fine June 1, 1903—May 19, 1908.....								½%	
Reprimand equals fine of one-half day									

DISREGARD

Fines previous to January 1, 1898; service prior to 1895; date on which commendation, honorable mention, or medal was awarded; all medals except the official medal of the Police Department; an odd reprimand before June 1, 1903; an odd eighth in the final mark; excellent police duty; extra tours of patrol; commendation or honorable mention for work done at the Slocum disaster or for any act not involving personal risk.

Date of Examination, May 19, 1908.

In the rating of the records each patrolman of the first grade is given a mark of eighty percent. For the purpose of this rating each patrolman is presumed to have reached the first or highest grade at the expiration of five years of service, irrespective of the actual date on which he was

advanced to the first grade. For each three months of the required five years which the patrolman lacks a deduction of one-half of one per cent. is made from this rating of eighty per cent. and no candidate is admitted to the examination who is not entitled to a mark of seventy-eight per cent. for seniority,—the mark of a third grade patrolman. Each major portion of three months is counted a full three months in favor of the patrolman. Thus a patrolman who has served four years, ten months, and sixteen days will be considered as having served five years. For each period of three months or major portion of such period which a patrolman has served in addition to the five years of service required by the rules for the attainment of the first grade, he is given an additional one-half of one per cent., subject to the limitation that a patrolman who has served thirteen years or more on the force is given a maximum mark of ninety-six per cent. and no additional credit is given for any longer period of service. In this way the young patrolman who has not yet had five years' experience on the force is given a very low rating and the older and more experienced patrolman is given a higher rating. And yet this scheme prevents a man from gaining any undue advantage by reason of an excessively long period of service, since it is a well-known fact that although for a certain period of time increased length of service indicates increased efficiency, this rule cannot be extended indefinitely. A man who has served on the force five or six years is more efficient because more experienced than one who has served only two or three years; but a man who has served twenty-five or twenty-six years is not more efficient than one who has served fifteen or sixteen years, since the problem of old age enters here and tends to decrease the older man's efficiency.

In addition to the basic mark which each patrolman receives according to his length of service, he is given certain additional credit for meritorious service performed by him at any time during his official career, where such meritorious service involved personal risk on the part of

the officer. For each commendation the officer is given an additional rating of one per cent.; for each honorable mention he is given an additional rating of three per cent.; and for each honorable mention with the medal of the department, he is given an additional four per cent. It should be borne in mind however that only an official commendation by the police commissioner or board of police counts as a commendation. Where a patrolman is commended by a private citizen, even though such commendation is entered upon his official record, it is not given any credit by the civil-service examiners. Furthermore, only a commendation given as the result of an act performed by a patrolman with personal risk is given consideration by the examiners. Where the commendation is given for good police work which did not involve personal risk it is not given any credit. Similarly the reward known as "Excellent Police Duty" is not recognized by the examiners and the medals bestowed by the police commissioner on parade day as the result of private benefactions such as the Rhinelander, Bell, Meyer, Automobile Club of America, or Brooklyn Citizens medals are not considered official medals within the civil-service rules. Only the official medal of the police department when conferred in connection with an honorable mention entitles a patrolman to four extra points in the rating of his record. A commendation or honorable mention awarded for work at the *Slocum* disaster is also not recognized by the Civil Service Commission, since these awards were made somewhat freely by the commissioner and often in cases where no personal risk on the part of the patrolman was involved.

In addition to being rewarded in the rating of his record for meritorious acts involving personal risk, the patrolmen are also penalized for offenses committed by them. For each day's pay that they have been fined between January 1, 1898, and May 31, 1903, a deduction of one-eighth of one per cent. is made from their mark. No notice is taken of a penalty of one-half day's fine during this period unless a

patrolman has suffered several such fines. For each day's pay that they have been fined between June 1, 1903, and the date of the examination, which was May 19, 1908, the patrolmen suffer a deduction of one-quarter of one per cent. from their mark. A reprimand is considered the equivalent of a fine of one-half of one day's pay and a deduction of one-eighth of one per cent. is made therefor. Fines inflicted prior to January 1, 1898, are disregarded as are also extra tours of patrol imposed as a disciplinary measure. In framing this scale of penalties for fines inflicted upon a patrolman it has been the endeavor of the Civil Service Commission to enable a patrolman to reform and turn over a new leaf. If he was an inefficient patrolman before 1898 and a good patrolman since then his old record will not count against him, and similarly a bad record during the period between 1898 and 1903 will not count as much against him as a bad record during the last five years between 1903 and 1908. It should also be borne in mind that, in accordance with a recent statute, the seniority of the patrolmen is counted from the date of their probationary appointment, which gives them an additional month to their credit and that the percentages of the patrolmen are computed only to quarters and not to eighths. When the final mark of a patrolman's record contains an odd eighth this eighth is dropped.

The seating of the candidates at the written examination for promotion to sergeant should be placed in the charge of a monitor who combines quickness of movement with a fair degree of executive ability. It should also be supervised carefully by an examiner. The candidates should be seated consecutively as they enter the examination hall. No seats should be left vacant and each candidate should be compelled to take the seat pointed out to him by the monitor. There is no reason why any candidate should be permitted to select his own seat. The seating of the candidates according to their own wishes results in much confusion, in an inability to keep track of the candi-

dates who withdraw, and in the possibility of candidates who wish to communicate with each other selecting seats which will assist them in this purpose. The tables at which the candidates sit and the chairs upon which they are seated should be nailed to the floor and there should be an aisle on each side of the tables. This is essential not only to prevent communication and copying between the candidates but also for a proper supervision over their work. The aisles should be sufficiently large to permit the monitors who supervise the candidates to walk along without interfering with the work of the candidates. If the aisles are too narrow the candidates will be constantly interrupted in their work to their detriment.

For a proper supervision of the candidates two classes of supervisors are required where the examination is a large one. Monitors should be employed in the first place to supply the candidates with question sheets and with writing paper and to supervise their work during the examination. The duties of monitors are essentially of a menial character and of a police character. They supply the wants of the candidates and prevent them from committing corrupt practices in the examination room. Men alone should be employed to perform the police duties of the monitor's position, which consist of patrolling the aisles, while women may be employed to sit at the supervising tables of each section and care for the answer sheets handed in by the candidates. It is desirable that not more than forty candidates be placed in one section and that these candidates be seated in four parallel rows of ten candidates each. If more than ten candidates are seated in a row it is difficult for the monitors to maintain a proper supervision over those seated in the rear, and if more than forty candidates are seated in a section the work of the female monitor who is seated at the table of the section and whose duty it is to care for the answer papers will be so great that the liability of error will be increased. The difficulty of proper supervision is however much greater

than the liability to error which is caused by the larger number of candidates being placed in one section. An experienced female monitor can easily attend to the papers of fifty or even seventy-five candidates without making errors, particularly if the number of papers handed in by each candidate at the examination is not unusually large, but the difficulty attendant upon a proper supervision of more than ten candidates in a row is a physical difficulty which it is impossible to overcome.

The selection of the monitors presents an exceedingly difficult problem. The work of these employees is irregular and it is difficult to obtain men of the right kind to accept irregular employment. In the first place, the pay of the monitor should be liberal. A salary of five dollars a day is not too large. Although it is by no means true that the size of the salary will determine the character of the employee, yet it is undoubtedly the case that it is frequently impossible to induce men of good character to accept positions paying low salaries. The position of the monitor is one of considerable responsibility, and it is essential that these employees be men of good character. Temporary or irregular employment is generally sought either by men who are out of work and are for that reason glad to accept any work by means of which they can earn some money, or by men who are too lazy or not physically able to work regularly. Men of both of these classes are unsuited for monitorial work. The man who is out of work is frequently a man who has little ambition, and who, being in the estimation of his employer the least efficient member of his staff, is the first to be discharged during slack times. And the man who is either too lazy or too weak to work regularly cannot endure the physical strain of the monitor's position. A monitor must be on his feet from early morning until evening and this is a physical strain which none but robust men should be asked to endure. It is needless to say that men who are recommended for this position by professional politicians should

not be employed as monitors, because it is generally the inefficient who seek positions by appealing to the charitable impulses of the professional politician.

The best class of men from which to select monitors is undoubtedly the large number of men who are trying to work their way through college. These men are ambitious men of good character. They cannot be induced to do any improper acts because they all have large careers before them, or at least think that they have. The irregular character of the employment does not deter them from accepting the position but rather acts as an incentive. They cannot afford to lose too many days from their studies. As they attend college for several years they can gain considerable experience in monitorial work and become expert monitors, while the fact that after their graduation they will be unlikely to desire employment of this character will prevent them from becoming professional monitors, who are not always a desirable class. In the case of the women monitors, college girls who are working their way through college are also the best to select. They have more intelligence and more adaptability for the performance of clerical functions than women who are engaged in housework, and who would be most likely to apply for the position of monitor if this position were thrown open to public competition. Where the examinations are uniformly held on Saturdays, it might be desirable to employ school teachers as monitors because of their experience in handling large numbers and in conducting examinations, but this is impracticable in the case of municipal civil-service examinations in New York City, because of the legal rule which forbids a single individual from receiving two salaries from the city.

As regards the technical method of choice it should be stated that monitors should be placed in the non-competitive class and not in the competitive or exempt class. They should not be placed in the exempt class because their work is not of a purely personal, confidential, or expert

character and positions in the exempt class, unless requiring unusual qualifications, are not generally given to the most fit applicants. Monitors should not be placed in the competitive class because the most desirable class of men and women is not secured by public competition. It is difficult to examine candidates for a position such as that of monitor and if a competitive examination is prescribed for candidates the questions set to the candidates must of necessity be general in their character. This will enable many to secure places on the eligible list who are not pre-eminently fitted for the discharge of the duties of the position. A non-competitive examination would seem to solve most of the difficulties connected with the choice of these monitors. If no candidates are nominated for non-competitive examination except college students, and if the non-competitive examination consist merely of an inquiry into the candidate's education, character, and experience, it is believed that a most desirable class of monitors will be secured.

It is a fundamental principle of administration which requires that the work of all subordinates must be constantly supervised. In the industrial world the supervision is necessary largely because the subordinates have not sufficient intelligence and education to understand the operation of which their work forms a part. But even where the subordinates possess as much intelligence as their superiors, supervision is required because the subordinates are unable to obtain the perspective necessary to a harmonious working of the system. Only a superior officer who can inspect the work of all his subordinates and co-ordinate their efforts can properly control their work. In the case of employees whose work is so irregular as that of monitors and whose tenure of office is so brief, the necessity of supervision is even greater. The percentage of inexperienced monitors is greater than the percentage of inexperienced operatives in other administrative systems and it is the duty of the examiners to instruct the monitors

in their duties and to supervise their work in every way. The monitors should be furnished with distinctive badges bearing a number for purposes of identification in the examination room, and it would seem that just as badges are necessary to enable the candidates to distinguish the monitors, badges distinctive in character from those worn by the monitors ought to be worn by the examiners, to enable both the candidates and the monitors to distinguish the examiners when they wish to refer questions to them for settlement. In addition to their work of instructing the monitors in their duties, examiners should also direct the examination and supervise the work of the monitors. The duty of supervision consists largely in seeing to it that no communication between candidates is permitted by the monitors and the work of directing the examination will be explained more fully later.

At the beginning of the examination, the chief examiner or examiner in charge of the examination should give general instructions to the candidates after calling them to order. Instructions which are repeated at each examination should be supplied to candidates in printed or typewritten form; they may be conveniently placed on the desks of the candidates before they are seated so that they can read them at their leisure while waiting for the beginning of the examination. It is well for the examiner in charge to call attention to these printed instructions when he begins to give his oral instructions and particularly to call the attention of the candidates to the fact that any communication or attempted communication between candidates will result in the disqualification of both offenders, quite irrespective of whether such communication takes place during the progress of the examination or after the candidate has completed his examination. It is absolutely essential that there be no conversation between candidates while they are in the examination room and it is preferable that the examiner be too severe in the enforcement of this regulation rather than that he should be too lenient.

Where the examiner is too severe his severity can be overcome by the Civil Service Commission on the appeal of the disqualified candidate, while too great leniency would soon result in the demoralization of the examination machinery. A second instruction which the chief examiner should give is the announcement of the weights of the various subjects which compose the examination and a statement of the percentage required on each paper and the percentage required on the whole examination to enable the candidate to pass. The examiner in charge should also announce the time for the luncheon recess and the time after which candidates may withdraw from the examination if they so desire. No candidate should be given permission to withdraw until after the expiration of the time during which late arrivals are admitted to the examination room, so as to prevent any possibility of consultation between a candidate who has withdrawn after examining the questions and a candidate who has not yet entered the examination room.

It has been found by experience that it is necessary to conceal the identity of the candidate in civil-service examinations and on this account it has become the rule in all civil-service examinations to forbid candidates from placing their names upon any answer paper handed in by them. Instead of signing their names to their papers they are required to sign an examination number which is assigned to them at the beginning of the examination. The first paper which is handed to the candidate at the beginning of the examination is the preliminary or identification sheet which contains blanks in which the candidate writes his name, his address, the place and date of his birth, his occupation, the names of his employers during the last five years, and the names of the vouchers on his application blank. The examination number is written or printed in the upper left hand corner of the blank by the examiner before the blank is handed to the candidate. The information called for by the blank is of such a character that it is believed no one but the candidate himself can answer it cor-

rectly. A comparison between the information given on the identification sheet on the day of the examination and the information contained on the applicant's official application blank will enable the examiners to detect any case of personation. If the information contained in the identification sheet differs from that contained in the application blank in any essential particular this will be a circumstance which will be even more conclusive evidence of personation than a dissimilarity of handwriting alone, and in any event it is a useful additional piece of evidence to establish the case of personation. After the identification sheet has been filled out and the examination number has been placed on the candidate's notice to appear or card of admission, these are both enclosed in the envelope provided for the purpose, on the outside of which the title of the position to which the candidate aspires, the date of the examination, and the candidate's examination number are written. This envelope is sealed by the candidate before it is handed in and it is not opened until all the papers of the examination have been rated and the marks affixed. In this way it is made reasonably certain that the candidate's identity will not be revealed to the examiner who rates the paper.

Although the use of examination numbers conceals the identity of the candidate to a large extent, it was found that candidates who are exceptionally ambitious or those who have considerable influence remember their examination numbers and then they or their friends speak to the examiners to try to secure for the papers bearing those examination numbers unusual leniency in rating. It should be stated to the credit of the civil-service examiners that such requests for favorable consideration were scarcely ever acceded to, but the pressure which was formerly brought to bear upon the examiners was enormous and proved to be a serious inconvenience to the men personally and a handicap to them in their work. It was largely to free the examiners from the pressure which the friends of candidates brought to bear upon them that the Murray system of concealing the

candidate's examination number was perfected by Examiner Thomas C. Murray of the Municipal Civil Service Commission of New York. The following table will explain the manner in which the Murray system is operated:

TABLE 16
EXPLANATION OF MURRAY SYSTEM

Name of Monitor.	Examination Numbers.	Numbers on First Paper.	Second Paper.	Third Paper.
Miss Smith...	... 1-40 ..	...156-195..	. 49-88	.156-195
Miss Jones...	... 41-93 ..	... 1-53 ..	.143-195	. 55-107
Miss Brown...	... 94-147..	...102-155..	. 89-142	. 1-54
Miss Doe.....	...148-195..	... 54-101..	. 1-48	.108-155

In the first column are placed the names of the women monitors in charge of the various sections. In the second column are placed the examination numbers assigned to the candidates seated in that section. These numbers are consecutive without any break. A break can occur only if a seat has been left vacant while the candidates are being seated, and as has been explained above this should never be permitted to occur. If a candidate withdraws this does not cause a break in the examination numbers because the examination numbers are assigned on the preliminary sheet and no candidate withdraws before he receives his first question sheet which follows the preliminary sheet. After these first two columns there will be as many columns as there are subjects in the examination, since a different set of numbers is given for each subject. To each section are assigned sufficient consecutive numbers to enable the monitor to place a number in blue pencil upon each answer sheet, care being exercised by the examiner who assigns these blue numbers that they are different from the examination numbers of the candidates and that they are sufficient for the needs of the section without any surplus. For example, if the consecutive examination numbers begin in the first section, are continued in the second and third sec-

tions, and end in the fourth section, the blue numbers for the first subject may begin in the second section, be continued in the third and fourth sections, and end in the first section; the blue numbers for the second subject may begin in the fourth section, be continued in the first and third sections, and end in the second section, and the blue numbers for the third subject may begin in the third section, be continued in the second and fourth sections, and end in the first section. The examiner who assigns the blue numbers will know only what block of numbers is assigned to each section for each subject, but will not know the exact blue number assigned to any single paper. It will be left to the discretion of the female monitor who writes the blue numbers upon the examination papers to mix her papers in any manner she pleases before placing the blue numbers upon them.

The candidate writes his examination number only on the stub of his examination papers and the female monitor then places the same blue number upon the stub of the paper and upon the paper itself. Subsequently an examiner goes over the papers to make certain that the same number is placed upon the stub as upon the corresponding examination paper and that the monitor has used the proper blue numbers in re-numbering the papers under the Murray system. After this examination of the papers by the examiner the monitor tears off the stubs, arranges them in consecutive order, and seals them in an envelope. This envelope is not opened until all of the papers have been rated. Then the envelope is opened and the candidate's examination number is taken from the stub and placed on the examination paper which bears the same blue number as the stub. This Murray system conceals from the candidate his true examination number, since the examination number which the candidate writes upon his stub is not the number under which his examination papers are rated, and in this way the examiners are relieved from the pressure which friends of the candidates formerly brought to bear

upon them in their efforts to assist a particular candidate. It does not serve to conceal the candidate's identity if any candidate is able to act in collusion with an examiner. Thus a candidate may make a certain mark upon his paper by means of which an examiner working in collusion with him may recognize his paper, but the high character of the examiners renders such an arrangement so improbable that it can safely be omitted from our consideration of the subject.

The questions should be prepared by the members of the examining board as many days before the examination as possible and placed in the personal charge and custody of the chief examiner. The manuscript copy of the examination questions should not leave the custody of the chief examiner until the morning of the examination, when the question sheets are to be printed or mimeographed. If the examining board can make satisfactory arrangements for the printing of the questions it is much to be preferred that the questions be printed. It may be that the small amount of examining done by a particular civil-service commission may render it wasteful to employ a printer during the whole year and the printing of the questions by a private printer may be inadvisable because of the risk of a leakage of the questions before the date of the examination. It is believed however that a printer can profitably be employed by almost every civil-service examining board during the whole year and that such a printer can print some of the blanks used by the commission when he is not engaged in printing examination questions. The mimeographing of examination questions is not a satisfactory manner of presenting the questions to the candidates. It is possible by the careful cutting of a stencil on the typewriter and the printing of the mimeographed copies by a thoroughly competent operator to turn out mimeographed copies which are clean cut and legible, but there are so few operators of typewriters who can cut a perfectly satisfactory stencil and there are so few office boys who are able to turn out clean and distinct mimeographed copies of the question

sheets that in practice mimeographed question sheets are always more or less illegible and unsatisfactory.

The printing or mimeographing of the questions should be done on the morning of the examination, while the candidates are assembled in the examination room, so that there may be absolutely no possibility of question sheets being delivered to the candidates before they reach the examination room. This principle of civil-service administration is now well recognized and there is scarcely any danger of the leakage of civil-service examination questions at the present day. It is however just as important that the machinery of the civil-service commission be so arranged as to indicate to the candidates that it is absolutely impossible for any one to obtain copies of the examination questions in advance of the examination. In the history of civil-service administration it was at one time possible to obtain the questions in advance of the examination and there are men who impose upon the candidates at every large examination by pretending to sell the examination questions in advance of the examination.

The distribution of the question papers should be placed in the personal charge of an examiner, who distributes them to the female monitors in charge of the various sections. It is best to give each of these female monitors five or six more question sheets than will be required in her section, so that there will not be any delay in distributing the questions, as might be the case if some of the men monitors in the section are able to distribute the question sheets more rapidly than others and if these more rapid workers are compelled to wait until the slower monitors have finished their work. If mimeographed question sheets are distributed the number of extra sheets to be distributed should be larger, so that the monitors can tear up the indistinct copies and furnish each candidate with a distinct copy of the question sheets. The monitors should under no circumstances interpret a question for a candidate and if it is possible they should always give the candidate a distinct

and legible question sheet to replace one in which one or more words are indistinctly printed. If there are no distinct question sheets available, the monitors should consult the examiner who has the manuscript copy of the questions before answering the candidate's query regarding the word which is indistinctly printed. Furthermore the question sheet which each candidate has used should invariably be attached to his answer sheet and handed in to the monitor, so that the candidate may be given credit where he has misunderstood an indistinctly printed question.

Four forms of corrupt practices will be considered,—personation of candidates, leakage of examination questions, communication between candidates, and dishonesty in the toilet rooms. It is believed that the personation of candidates by individuals hired to take the examination for them has been checked by the use of the preliminary or identification sheets in which the candidates are required to repeat at the examination certain information of a personal character already supplied by them on their application blanks. Similarly the leakage of examination questions has been checked by the fact that the examination questions are at the present day in police examinations printed on the morning of the examination while the candidates are waiting in their seats. Yet where this fact is not widely advertised and brought to the attention of the candidates it is still possible for men to impose upon the candidates and sell them at exorbitant prices what they falsely represent to be the questions of the examination. To prevent communication between candidates it is necessary that the monitors be unusually alert and attentive to duty and that they be carefully supervised by the examiners. The men monitors should be required to patrol their aisles continuously and it should be impressed upon the female monitors that in so far as their other duties will permit they should keep a careful watch over the candidates from their seats at the head of each section. The primary duty of the female monitors is to take care of the answer papers

handed to them by the men monitors, but when not actually engaged in this work they should also watch the action of the candidates. It is often possible for them to detect communicating candidates who would not be detected by the men monitors. The candidates know that the men monitors are watching them and do not know that the women are watching them. Therefore they frequently attempt to communicate only when the men monitors have turned their backs or look in another direction. Such offenders can be easily detected by the women monitors if they are vigilant in their attention to duty.

Dishonesty in the toilet rooms presents a more difficult problem. If the examination consists of several short papers it is perfectly proper to forbid all candidates from going to the toilet room until they have finished the particular paper on which they are working, under penalty of having the paper on which they are working taken up by the monitor when they leave their seat and not being permitted to finish this paper. When the examination consists of only one or two question papers it would also be quite proper to enforce such a regulation, but it is more kind if the candidates under such circumstances be permitted to go to the toilet room, provided that they are accompanied to the toilet room by a monitor who remains with them continuously until they resume their seats. It is difficult however to make certain that the monitors will supervise the candidates while they are going to the toilet room. The monitors seem to consider this duty degrading and the candidates are quick to take advantage of this prudishness of the monitors. This difficulty is even greater in the case of women candidates for the position of police matron, who should of course be accompanied to the toilet room by women monitors. Women monitors are even more reluctant to perform this duty than men monitors and women candidates seem to be decidedly more ready and willing to take advantage of opportunities offered them in this way.

TABLE 17
COMPUTATION OF SERGEANT'S AVERAGE

	Mark of Examiner.	Weight.	Product.
Rules and Regulations.....	100	3	300
Administration.....	100	2	200
Laws and Ordinances.....	100	3	300
Report.....	100	2	200
		10)	1000
	Written Average Mark on Record and Seniority ¹		100
			100
			2) 200
	General Average Medical Examination		100 Passed

MUNICIPAL CIVIL SERVICE COMMISSION, NEW YORK.
EXAMINATION FOR SERGEANT²

Rules and Regulations

1. When members of the police force use outside telephones in the transaction of official business, what rule must they observe?
2. Under what circumstances and restrictions may a person be permitted to hold conversation with a prisoner in the cell of a station-house?
3. If you were on patrol duty as sergeant and failed to find a certain officer on his post, what precise course would you follow and how would you have the post covered if the patrolman continued to absent himself?
4. The possibility that finger impressions may have been left

¹ For the method of computing the candidate's mark on his record and seniority, please see Table 15, p. 510, *supra*.

² For the questions asked of applicants for the position of police sergeant in twelve of the largest American cities, *cf The Chief, Journal of the Civil Service*, xii, Nos. 290, 291, 292.

by the criminal necessitates what immediate action by members of the Force, on arriving at the scene of a crime of violence?

5. A lost child five years old is brought into a station-house at 8 P. M. What duties devolve upon you, if you are a sergeant in the precinct and assigned to act as desk officer?

6. What are the restrictions upon the use of fire line badges, and what persons may pass the fire lines without them?

7. Describe in detail the process employed in the making of charges against a patrolman from the time he is caught off post until he has been fined for his neglect of duty.

8. What restrictions are placed upon members of the police force as to lending or borrowing money?

9. What must the property clerk do with stolen property that is claimed by two opposing parties? That is wanted as evidence in a criminal court? That is unclaimed?

10. Smith was injured in a street car accident. Sometime later a party claiming to be Smith's attorney calls at the station-house and asks that the blotter record of the accident be read to him. State what you would do as an acting lieutenant. Give the rules.

11. What reports are to be made by an officer doing desk duty who receives information of a suicide in his precinct?

12. Mention fully two ways in which the Police Department co-operates with the Department of Water Supply, Gas, and Electricity.

13. What do the rules say about: (a) Dying declarations, (b) An officer under influence of liquor; (c) Arrests of drivers of wagons containing U. S. Mails?

14. If assigned as lieutenant in charge of a precinct and you have occasion for some reason to leave the station-house, what should you do before going and on returning?

15. If you found a person in the street seriously injured so that he needed immediate medical attention, state what is required of you under the rules.

16. A police officer locates in a saloon a man wanted for arson. He calls upon a special patrolman in the next block to help make the arrest. The special patrolman refuses to aid him saying that he is shadowing two thieves on his beat and also that he is not paid by the City of New York. State what you would do and give the rules governing such a case.

17. What persons are allowed to have interviews with witnesses detained in the House of Detention? Under what restrictions may such interviews be authorized?

18. On your rounds as sergeant you find a patrolman unfitted

for duty through intoxication. Under the circumstances what is your duty at the time and afterwards?

19. A child of twelve is being detained at the station-house temporarily as a witness in a murder trial and its parents make the request that it be released on their recognizance without bail; as acting lieutenant would you refuse such a request? Give reason for your answer.

20. Specify the matters which a sergeant is required to enter in his memorandum book while on patrol duty.

21. A patrolman arrests a notorious criminal who is wanted by the police of several cities. A newspaper reporter states that his paper is very much interested and that it will give the patrolman \$200 for a signed article giving details of the circumstances leading to the arrest. What rules of the department should the patrolman explain to the reporter.

22. State fully what is done with a pistol which has been found when searching a person arrested in a raid on a gambling house.

23. A police officer arrests the driver of a Fifth Avenue Automobile (public line) who has just run over and killed a little girl. A number of witnesses declare that the accident was entirely the fault of the child and the driver insists that the officer accompany him to the end of his route a mile distant. The officer however insists on taking the man to the station-house at once. Is he right? Give reasons for your answer.

24. Name the diseases which must be reported to the station-house, should they occur in a policeman's family, so that the public health may not be endangered.

25. Specify the items of information which a patrolman is required to include in his report of a street accident in which one or more persons have sustained physical injury.

Administration

1. A man steps into a cab at Grand Central Depot and rides two hours. The cabman insists that he be paid for distance covered and not at the hourly rate. How would you decide the case as acting lieutenant? If the passenger refused to abide by your decision, what would you do?

2. Under what circumstances may sergeants of police be reduced to the rank of patrolman?

3. A sergeant in civilian's clothes is riding in the front car of an elevated train when a crowd of twenty or thirty roughs enters the car and becomes boisterous, annoying other passengers, calling to the motorman, etc. What should the sergeant do? Give particulars.

4. What advice would you give to a man who (a) wants a runner's

license; (b) wants a plumber's permit to open a street; (c) has lost a child; (d) wishes to get a dog license; (e) desires to store a barrel of gasoline in his cellar.

5. At two o'clock in the morning a sergeant meets a patrolman just as a fire breaks out in a tailoring establishment. The patrolman goes to send the alarm, the sergeant breaks in the door and in a few minutes puts out the fire without assistance. He discovers that the fire originated in a pile of paper patterns near a can of benzine used presumably for cleaning purposes. What should the sergeant now do under the circumstances?

6. What would be the duty of the desk officer in case a Tenement Inspector called for aid in the performance of his duty and claimed that he had been interfered with by the owner of a tenement house he was inspecting?

7. What connection has the Police Commissioner with the pension fund? Give three distinct sources of income to this fund.

8. A sergeant is travelling on the subway when a serious accident occurs between stations. What should the officer do? Answer in detail, giving full particulars.

9. While on post, you are approached by two men who make the following complaint: One states that his friend who cannot speak English has paid \$10 to an employment agent for the purpose of procuring a position as laborer. He complains that he has not been given employment and that the agent has refused to return his money, saying that he would get him a position later on. State the advice which should be given by you.

10. While on post a patrolman meets a person who he thinks is wanted for burglary. Before he has time to make certain, the man enters a house and the patrolman follows. Inside the door he is stopped by a person who says that a meeting of a private club is in progress and no one excepting members may enter. State fully what the officer should do.

11. State in detail the steps which a police officer should take in the case of his own personal illness before he has been attended by a police surgeon, and after he has been attended by a police surgeon.

12. While a sergeant is on his rounds a serious race war suddenly breaks out, large mobs gathering rapidly. How should the sergeant deal with the situation? Explain particulars.

13. Under the present organization of the Department what deputy commissioner has supervision over each of the following matters: (a) Investigation of pension claims; (b) Bureau of Clothing and Equipment; (c) Regulation of Traffic; (d) School of Instruction; (e) Boiler Inspection?

14. Explain fully the power of the Coroner in connection with criminal matters.

15. A citizen complains to you that a certain U. S. Mail wagon driver whom he points out is in the habit of beating his horse unmercifully. What course would you follow in such a case?

16. A householder complains to a patrolman on post that his family cannot sleep at night on account of noises made by an amateur musical society which meets in a hall in the vicinity. State what should be done by the patrolman, giving your reasons.

17. While on post you are informed that a certain family in the vicinity is without the necessities of life; that the children are suffering and the mother is sick. If the reports are true, what action should be taken by the Police Department?

18. If you were detailed to see that the Sunday Law was not broken in certain theatres where some language you did not understand was spoken on the stage, what measures would you take in order to be able to present reliable evidence? What particulars outside of those relating to the spoken part of the performance would you be careful to obtain?

19. What would you do if while on duty after midnight you discovered the doors of a liquor saloon unlocked and the place entirely deserted?

20. While patrolling his post at ten o'clock at night, a patrolman is approached by a man who states that he is a constable from Rockland County and that he wishes to arrest a man for violation of law in not paying a hotel bill. He is positive that the person wanted has just entered a certain house and asks the assistance of the patrolman in making the arrest. State fully the duty of the patrolman under the circumstances.

21. A respectable woman was recently insulted by a man in the street. She complained to a policeman and the man was arrested and locked up. The complainant was also locked up as a witness. In the proceedings described was there anything illegal and if so what should have been done?

22. State briefly what a patrolman should do under each of the following circumstances, giving your reasons:—

(a) About ten o'clock in the morning a woman tells a patrolman that she has come to New York to ask for employment, that she is not in good health and is without money or friends. She desires to return home and asks what to do.

(b) A woman asks a patrolman to arrest her husband, stating that he is at home intoxicated and that she is afraid of him.

(c) A person complains that a family living in the basement under

a store in the house where she lives keeps a goat which is a nuisance to the other tenants.

23. While on post a patrolman is approached by a grocer who states that a woman who had been in his store several times had asked him to cash a check. As several tradesmen in the neighborhood including himself have recently been defrauded by worthless checks he is certain that the woman is one of a band of swindlers. He says that she is still in his store since he has left on the pretext of obtaining the money from a neighbor. State fully the action to be taken by the patrolman, giving your reasons.

24. What action would you take and why, if called by a conductor of a trolley car who claimed a passenger refused to pay his fare and he was going to put him off?

25. State the circumstances under which you would make charges against a patrolman for conversing with a citizen when you did not overhear the conversation.

26. What would be the duty of the officer in charge of the desk in case a citizen reported to him that a contractor had permitted building material to encroach upon the part of the street in front of his house?

27. The following complaint is made to a sergeant: A woman states that her husband has been ordered to pay her \$6 a week, that he had neglected to do so, and that she had not seen him for some time until to-day. She had seized him and called for assistance. The officer arrived, she stated the case to him and asked him to make an arrest. The officer refused to do so and when she insisted told her that he would lock her up if she kept on creating a disturbance. Her husband in the meantime had made his escape. State what action the sergeant should take in the matter, giving your reasons.

Laws and Ordinances

1. A citizen informs a patrolman on post that at a meeting at which he was present a speaker whom he points out had advocated the doctrine that the only salvation of the working classes is the forcible overthrowing of government as at present organized and pointed out the assassination of the King of Portugal as an example to be followed. What is the officer's duty under the circumstances? Give reasons for your answer.

2. From what authority must a person have a license to (a) conduct a lodging house; (b) operate an automobile; (c) conduct a theatre; (d) sell liquor at wholesale?

3. A certain fruit dealer in your district permits the sidewalk in front of his store to be strewn with banana peel and vegetable

refuse. What provision is made in the ordinances to prevent such a state of affairs?

4. Your attention is called to a child pledging an overcoat in a pawnshop. What is your duty under the circumstances, in case the child claims to have been sent by his father? State your reasons.

5. A gambling house is raided and the roulette wheel is seized and at once destroyed by the lieutenant in charge. For this action he is brought up on charges and fined. Was the fine just? Give reasons for your answer.

6. A janitor of a tenement house complains to a policeman that a pushcart peddler has remained in front of his house for at least three-quarters of an hour selling poultry and has refused to move on. Upon being spoken to by the officer the peddler produces a license and states that he is within his rights. State what the officer should do, giving your reasons fully.

7. What discretion has a desk officer in holding or bailing a railroad employee held responsible for an accident?

8. What public official has jurisdiction over the following work: (a) Laying of new pavements; (b) repairing of pavements; (c) laying of sewers; (d) repairs to public buildings; (e) issuing of permits for alterations to buildings?

9. As sergeant in charge of the police at a large picnic, your attention is called to two men who are treating children aged fifteen. One man is buying them beer, the other is giving them cigarettes. What is your duty as to these men and the proprietor of the park? State your reasons.

10. At an election a patrolman is detailed to a polling place. A party watcher complains that a person who has just voted is not a resident of the district. He further states that the chairman of the election board must be aware of the fact since the voter claimed a residence in the house in which the chairman lived. The officer is asked to arrest both the voter and the chairman. The officer was not present when the voting took place and the complainant refuses to go to the station-house with the officer, saying that he cannot leave the polling place. If the statements are true, what crimes have been committed and what is the duty of the officer?

11. What are the restrictions imposed upon drivers of public hacks in regard to cruising?

12. Can you arrest without a warrant when the crime is not committed in your presence in the following cases? Give reasons for your answers. (a) Abandonment of a child, aged 3. (b) Keeping a slot machine. (c) Blackmail. (d) False registration.

13. If in attempting to stop a street fight and make arrests you are resisted by several roughs, and you call on bystanders known

to you by sight for aid and they refuse, what should you do then and afterwards?

14. Can a patrolman arrest a person known by him to have been more than once convicted as a pickpocket, thief, or burglar and having no visible means of support, who is found loitering about a public gathering? If so what charge should be made against him and what should the patrolman do with him after he has made the arrest?

15. Explain the difference between a subpoena, a summons, and a warrant. By whom may each be issued and under what circumstances?

16. What department of the State or City Government grants permits or licenses for each of the following: (a) A chicken slaughterhouse; (b) peddlers; (c) selling gunpowder; (d) conducting a billiard parlor; (e) all night liquor license?

17. What is the duty of a patrolman at the polls in regard to the ballot boxes and election supplies?

18. A citizen makes complaint that a brass railing has been stolen from his house and that a certain dealer in second-hand articles has purchased it. In response to inquiry by an officer the dealer states that about two weeks previously he had purchased a brass railing just as he was closing up about nine o'clock at night but that he had since sold it to a foundry. He states that he cannot remember the name of the person who sold it since he cannot write and therefore keeps no books. State fully what city ordinances have been violated in the above case.

19. Name five different kinds of permits or licenses issued by the Police Commissioner.

20. While patrolling a police officer sees John Jones for whom a warrant has been issued for maintaining a nuisance. He attempts to arrest Jones who demands to see his warrant. The officer ignores the request and Jones in resisting arrest assaults the officer who clubs him into submission. At the station-house the officer makes a charge of assaulting an officer and resisting arrest. State whether the officer was justified, giving your reasons fully.

21. Explain the present power of the Police Department to control or supervise pawnshops.

22. Specify five classes of persons to whom intoxicating liquors must not be sold or given.

23. Under what circumstances may a person be liable to arrest without warrant, although not charged with any particular crime?

24. Name four kinds of felonies against the person. Name three kinds of felonies against property.

25. What is the speed limit for vehicles in the City of New York and what vehicles are excepted from this provision?

Report

1. An automobile accident, involving serious injuries to several persons, occurs on your post. Assuming that you are a witness of the accident, make a report of the facts to the proper authority. Sign this report John Doe.

2. On your rounds as sergeant you discover that a dry-goods store has been robbed by burglars. Write a report of about 250 words describing the circumstances and making the usual charges against the patrolman on post. Sign this report John Doe.

3. A steer breaks loose from a railway stockyard and the animal before capture knocks down and injures several persons. Assuming such facts as you please, make a report on the matter to the proper authority. Sign this report John Doe.

4. Write a report of about 250 words based on oppression and extortion practiced on a pushcart peddler by a patrolman. State the circumstances and prefer charges. Sign this report John Doe.

5. You suspect that a certain house on your post is a gambling house. Report your suspicions in proper form and give all the facts in the premises. Sign this report John Doe.

SECTION III. EXAMINATION FOR POLICE MATRON¹

Examining Board—Personal History Blank—Physical Examination—Medical Examination—Conduct of Examination—Conditions Found—Causes for Rejection—Postponement of Examination—Medical Examination Blank—Written Examination—Examination Questions.

The physical and medical examination of candidates for the position of police matron is conducted by a board of three examiners consisting of a woman physician in charge of the medical examination, an expert physical instructor in charge of the physical examination, and an experienced non-professional examiner in charge of the clerical details of the examination. When the candidate enters the room her official notice to appear is examined by a monitor and she is given an examination number which is placed at the top of the notice to appear by the monitor. The candi-

¹ For valuable assistance in the preparation of this section, the author is indebted to Dr. Emily Dunning Barringer, Expert Medical Examiner of Women Candidates, of the Municipal Civil Service Commission of New York.

dates are then required to wait in an anteroom until their number is called. The candidates are called in groups of five, one group being examined every fifteen minutes. Each group of five candidates is ushered into a dressing room where they are requested to be seated at tables and are called upon to fill out the following personal history blank.

MUNICIPAL SERVICE COMMISSION
MEDICAL BUREAU

Questions to be Answered by the Applicant for the Position
of Police Matron

Where were you born?.....When were you born?.....
How long have you lived in New York City?.....
Are you married, single, widow, or divorced?.....
How many children have you had?.....Boys?.....Girls?....
What is your present occupation?.....
What have been your occupations for the last five years?.....
.....
.....
At the time of your monthly sickness are you able to do your full
work?.....
Have you any disease now?.....
Have you ever had fits, epilepsy, convulsions, or attacks of fainting
or unconsciousness?

What diseases have you had during the last seven years?.....
.....
Mention any hereditary disease in your family.....
Are you subject to piles?.....
Have you been vaccinated?... Have you ever had rheumatism?....
Have you any physical defect or disease not mentioned above?

Signature of Applicant.....
Address.....

They are next requested to undress behind screens. The candidates are required to take off all of their clothing and to put on long kimonos which they are ordered to bring with them for that purpose. One at a time they are called by a second monitor into the examination room.

They go to the physical examiner without any clothing other than a long kimono and a pair of slippers. They are

first weighed by the physical examiner and then their height is measured. Those candidates who fail to reach the minimum requirement of five feet are peremptorily rejected. The next test is a test of the candidates' vision; this is a test to detect myopia. The candidates are required to read the 20/20 line on Snellen's test types, an error of one letter in the line being allowed without causing the rejection of the candidate. Several different cards are provided and the reading is done backwards and forwards and by pointing out single letters to prevent corrupt practices on the part of the candidates. The right eye and the left eye are furthermore tested separately. The third exercise is a dumb-bell test. The candidates are required to lift a twenty-pound dumb-bell with the right hand to the shoulder and from the shoulder straight above the head. The same exercise is repeated with the left hand. Each candidate is furthermore required to throw a ball in order that the examiner may ascertain thereby her muscular co-ordination and agility. A single mark is assigned by the physical examiner, which is a general summing up of the candidate's physical condition and which is based upon her performance in all of the three tests given her. For this general average three marks are assigned,—70, 85, and 100. The physical examiner makes no rejections except for short height. Whenever in her opinion a candidate is in such physical condition that she is unable to perform the duties of a police matron she refers the case at once to the physician for a decision. The physical examiner recommends rejections in very severe cases of myopia and in cases where the candidates show great debility or physical weakness. There is no minimum or maximum weight requirement; the candidates who are too heavy or too light are given low marks on their physical examination.

After passing the first physical examiner the candidate goes to the medical examiner, who reads carefully the candidate's personal history blank filled out by her in the examination room and the physical examination record

filled out by the physical examiner. No written record of the medical examination is kept, with the exception that when a candidate is rejected the detailed reasons for such rejection are noted on the rejection slip of the candidate. The medical examination of the candidates is absolutely thorough. The medical examiner first makes a general inspection of the candidate, as to her personal habits and habits with regard to the use of stimulants. This preliminary medical inspection also includes an examination of the mouth and teeth, of the skin for eruptions or scars, of the neck and breasts, and a search for hemorrhoids. Next the heart and lungs of the applicant are examined carefully. The examination of the abdomen and lower extremities follows and finally an examination of the genito-urinary tract is made in those cases where some symptoms suggest the necessity of such an examination.

The physical and medical examination of candidates for the position of police matron, as it was conducted at the most recent examination for that position held by the Municipal Civil Service Commission of New York, is the most careful and thorough examination of women applicants ever conducted by any municipal civil-service examining board. The majority of the women applying for this position are self-respecting married women who have had one or more children. They are usually much in earnest and if properly and courteously treated by the examiners they will generally make no objection to allowing a fair and complete examination of their persons. Whether the examination will be conducted in a business-like routine way without any friction or whether it will give rise to many angry protests and much dissatisfaction on the part of the candidates depends largely upon the tact and innate good breeding of the medical examiner. Physical examinations of women applicants for civil-service positions are seldom conducted with a minimum of friction. The candidates are always in a more or less nervous condition and the slightest lack of tact or apparent discourtesy on the part of the

examiner may give rise to protests, more or less serious, which detract from the success of the examination. In one examination, for example, the medical examiner, seeing the monotony of the examination broken by the appearance of a negro candidate, remarked: "You're a colored woman. Your hair is straight. How funny!" This remark was not intentionally discourteous but the candidate was much offended and the thoughtlessness of the examiner resulted in a series of protests against the manner in which the examination was conducted.

The physical defects most frequently found in the case of candidates for the position of police matron are those which are characteristic of working women between the ages of thirty and forty years of age, who have borne children. These include laceration of the perineum in varying degrees; relaxation of the muscular walls giving rise to various hernia; hemorrhoids of varying sizes; tumors of the breasts or evidence of chronic inflammatory condition of these glands; abdominal tumors of some of which the candidates were entirely unaware because they gave no symptoms; varicose veins of the legs of various degrees, few of them being advanced cases; and flat feet. Defective teeth are very common but most of the candidates have their mouths put in the best condition possible by dentists before they come to the examination. Enlargement of the thyroid gland is sometimes found but organic diseases of the heart are not frequently met with. Functional heart murmurs are much more frequently found than organic heart diseases but the number of cases of functional heart murmurs in the case of these women between the ages of thirty and forty are actually fewer than would be found in women between the ages of fifteen and twenty-five. Some cases of marked myopia are found but more often defective vision is due only to the changes incident to advancing years, and defects corrected by the use of glasses are not considered sufficiently serious to cause the rejection of the candidate. Few cases of deafness or of diseased conditions of the lungs are found. There

are however always several cases of marked obesity and some cases of candidates who are unduly thin. Evidence of alcoholism is not often found although suspicion of alcoholism is more frequently met with. There are also in every examination several cases of suspected venereal disease and a number of cases which are generally below par, — these women are apt to have bad teeth, relaxed muscles, varicose veins, etc.

The following physical defects cause the rejection of the candidate by the medical examiner: Evidence of alcoholism or the drug habit, or of venereal disease; serious defects of vision or of hearing; pyorrhœa alveolaris; double dental plate unless the candidate is otherwise an unusually excellent physical specimen; marked deformity of feature or figure which would be a handicap to her in her work, such as extreme curvature of the spine, paralysis of various parts, extensive scars, etc.; enlargement of the thyroid gland suggestive either of exophthalmic goitre or new growth of the gland; tumors of the breast; scars in various parts of the body where there is any question of the recurrence of a malignant tumor or tuberculous glands; organic murmurs of the heart, functional murmurs of the heart not being considered a cause of rejection unless extreme; asthma, tuberculosis, chronic bronchitis, or advanced emphysema; enlargement or cirrhosis of the liver; tumors of various kinds in the abdomen; evidence of dilatation of the stomach, post-operative herniæ, umbilical hernia, inguinal hernia, and femoral hernia; extensive varicose veins or ulcer of the lower extremities, small varicose veins being occasionally passed over when the candidate is otherwise eligible; marked flat foot; evidence of nephritis or diabetes; marked hemorrhoids; laceration of the perineum or other pelvic structures as the result of childbirth if marked or giving symptoms; and finally the condition of being generally below par and unfit in the case of applicants who have several of the conditions described above to a slight degree only but the combination of diseased conditions rendering the candidate

unfit. Marked obesity is also considered sufficient cause for the rejection of the candidate.

On the basis of the candidate's personal history as given by her on her personal history blank, the candidate's performance in the physical examination as rated by the physical examiner, and the result of the medical examination conducted by the medical examiner, the medical examiner assigns to each candidate a final mark in the medical and physical examination. Three marks are assigned,—one hundred per cent. or excellent, eighty-five per cent. or good, and seventy per cent. or poor. All candidates receiving seventy per cent. or more are passed and thus made eligible for the written examination. Candidates receiving less than seventy per cent. on the physical examination or less than seventy per cent. on the medical and physical examination are rejected and a full statement of the cause of their rejection is entered on the record of the medical and physical examination in the following manner

MUNICIPAL CIVIL SERVICE COMMISSION, NEW YORK
MEDICAL EXAMINATION

Position, *Police Matron.*

Weight, 180 lbs.

Height, 5 ft. 4 in.

Color of eyes, *brown.* Hair, *brown.*

Vision, $\frac{2}{80}$.

Physical Condition, 70%. (REJECTED.)

Remarks, *Marked varicose veins, flat foot, hemorrhoids.*

Date, *April 12, 1909.*

Emily Dunning Barringer,
Medical Examiner.

Signature of Applicant, *Mrs. Nellie Brown.*

Address, 213 East 17th Street.

No. 150.

A postponement of the medical and physical examination for a few days is granted to candidates who are suffering from their monthly sickness, and the privilege of a deferred examination subsequent to the written examination is granted to candidates in whose cases a urinary

examination or an internal examination is indicated or where candidates who are otherwise excellent physical specimens are suffering from diseased conditions which can easily be remedied by an operation, as, for example, varicose veins, simple hernia, laceration, or benign tumors.

The impersonation of candidates in the medical examination for the position of police matron is guarded against by having the candidates fill out their personal history blank in the examination room and by having them sign their names and addresses on the medical examination sheet. Those candidates who pass the medical examination successfully are eligible for the written examination, which is conducted in the same manner as the examination for patrolman.¹ The written examination consists of three papers. There is required a statement of the candidate's experience prepared at home and sworn to before a notary public or commissioner of deeds. This experience paper is submitted on the day of the written examination and in rating it events in the personal history of the candidate which would tend to fit her for the position of police matron are given a higher mark than experience which would not have this tendency.

The principal paper of the written examination is the paper on "Duties of the Position," consisting largely of the submission of hypothetical cases occurring in the discharge of the duties of the position of police matron. These cases are submitted to the candidate, who is requested to state how she would act in each of the cases mentioned. The intelligence of the candidate and her possession of the information required properly to perform the duties of the position are tested by this paper. Candidates are also required to submit a written report on a given state of facts, by means of which their ability to use the English language correctly and intelligently is tested, and candidates are also afforded an opportunity to demonstrate their ability to understand foreign languages by translating into as many foreign

¹ Chapter X, Section I, *supra*.

languages as they know some simple colloquial English submitted to them. Preference in appointment is given to those candidates who know some language in addition to English. The medical examination is given a weight of fifty and the written examination is also given a weight of fifty in the examination for police matron and the sum of the ratings in the medical and written examinations when divided by two will give the final rating of the candidate in this examination.

MUNICIPAL CIVIL SERVICE COMMISSION, NEW YORK.
EXAMINATION FOR POLICE MATRON

1. A woman of apparent refinement has been arrested charged with shoplifting. The prisoner refuses to answer any question put to her and seems on the verge of nervous breakdown. If placed under your charge, how would you proceed to get from her all necessary information? Would you, in the treatment of this woman, make any exception to that accorded to the ordinary prisoner, and if so, give reasons in full.

2. How would you proceed to search a woman, accused of thieving? Tell each thing you would do. Also tell various ways in which you would act if she resisted your search.

3. A girl of 15, a drunken woman, and an injured or helpless woman are brought in and turned over to your care. What will you do with each?

4. If the cells in the station-house in which you are on duty as Matron should be overcrowded and it became necessary to place more than one female prisoner in each cell, in what manner would you dispose of a number of women, some charged with intoxication, some with shoplifting, and others known to be women of bad character?

5. Explain clearly what means you would take to maintain discipline and quiet among women under the influence of liquor.

6. In case a woman prisoner drank poison in her cell from a bottle which she had successfully concealed, state what efforts you would make to save her life pending the arrival of a surgeon.

7. How would you treat a woman prisoner under each of the following circumstances?

(a) If she uses insolent and abusive language towards you.

(b) If she threatens you with personal violence.

(c) If she actually assaults you.

8. What must be done with lost children brought to a station-

house? What must be done with such children where there is no matron in the house?

9. If a woman who was helpless was brought in, how would you know if she was under the influence of liquor or some drug, or if she was ill? What would you do in each case?

10. What remedies do you think should be kept on hand by the Matron for emergency treatment of (a) fainting; (b) cramp; (c) nausea; (d) chill from exposure; (e) heat prostration?

11. State (a) what you understand to be the duties of a Police Matron; (b) what qualities, besides good character, you consider most important in a Police Matron.

12. Would you discriminate in your treatment of girls under eighteen and women over eighteen? If so, state how and why.

13. A woman is brought in charged with being drunk and disorderly. State precisely and with full particulars what you would do.

14. A woman under your charge has an epileptic fit. While waiting for the surgeon what would you do?

15. What questions would you put to a prisoner placed under your charge?

16. Suppose a party of prisoners became unruly and noisy. What would you do?

17. Under what circumstances would you consider it proper to administer drugs to a prisoner? State what drugs and in what doses.

18. What inspection would you make, and how often, to see that all the premises under your charge were kept clean?

19. Translate the following into all the languages you can offer:

How old are you? Eighteen years old. Have you had anything to eat to-day? I had a piece of bread and a cup of coffee? Where do you live? If you were so sick why didn't you have a doctor? The doctor costs too much. You should be good now, and let me look at your clothes. There is a policeman just outside, who helps me when any one does not submit.

20. Write a report of not less than 250 words to the captain of your precinct, complaining to him about a patrolman of the precinct who persists in coming to your office on various pretexts, although you have warned him repeatedly that his action is a violation of the rules of the department and exceedingly annoying to you.

Sign this report "Jane Doe."

INDEX

- Abatement of nuisances, 224
- Abdomen, examination of, 506
- Abuses, in bail cases, 135; in arrests by special policemen, 229
- Administration, examination questions in, 529
- Administrative appeal, 271: in United States, 273
- Age of patrolmen, 466; in American cities, 82
- Agility test for police candidates, 485
- American police forces, 26, 113; unsatisfactory character, 369
- American, public health law, 222; law of prostitution, 395
- Ancient police forces, 16
- Anthropometrical measurements, 94, 355, 486
- Appeals, in civil-service examinations, 104; in New York, 105; in police removal cases, 271; proper function of, 290
- Application blank, for patrolmen, 465; false statements in, 445; vouchers, 473
- Appointment, of patrolmen, 97; without examination, 75; of special policemen, 227; of officers without examination, 425; of police chiefs, 438
- Arithmetic questions for patrolmen, 497, 503
- Arrests, 126; powers of policemen, 129; failure to make, 131
- Assistants to chief, 67
- Bail, 133; abuses, 135
- Baton, 315
- Bingham, Theodore A., 124
- Bi-partisan police boards, 34
- Blackmail, 132, 404
- Blackmailing of police candidates, 102; remedy, 103
- Blotter, 326
- Board of police, 32
- Brothel, 396
- Building regulations, 209
- Captains, 59
- Care of uniforms, 313
- Cause, removal for, 286
- Causes, of police corruption, 374; of police removals, 428, 438; of rejection of applicants for police matron, 540
- Census, 5
- Central aid to local police, 175
- Centralization, lack of, 204
- Centralized national police, 9
- Central office, detectives, 174; records, 335; roundsmen, 457
- Certification of roundsmen, 54
- Certiorari*, 276; under New York Code of Civil Procedure, 288
- Chain of responsibility, 340
- Character, of American chiefs, 46; of American captains, 66; of patrolmen, 97
- Charges, 247
- Chiefs in American cities, title, term, and salary of, 442
- "Chinning" in physical examination, 483
- Citizenship of patrolmen, 465
- City police, 15
- Civil-service examinations, for roundsmen, 52; for sergeants, 57, 505; for captains, 64; in England, 71; for patrolmen, 75, 444 465; for matrons, 161, 535; kinds of examination, 79; scope, 84; preparation, 85; conduct, 87, 491; physical, 91; rules, 492; appeals, 104; in New York, 465
- Civil-service examiners, 517;

- Civil service—*Continued*
 for physical examination of police matrons, 535
 Civil-service reform, 78
 Classification of details, 185
 Commissioner, 38
 Compulsory retirement, 168, 300
 Computation, of patrolman's average, 498; of sergeant's average, 527
 Concealment of candidate's identity, 520
 Conduct unbecoming an officer, 251
 Consolidated Public Health Act, 219
 Constitutionality of state police, 421
 Constructive arrest, 137
 Contributions to policemen, 297
 Control, of criminal classes, 138; of administrative discretion by courts, 284; of leisure, 369, 375; of prostitution, 394, 401; of liquor trade, 401; of gambling, 401
 Corrupt practices, of building inspectors, 210; of police, 371; causes, 374; in examinations, 87, 479, 525; in toilet rooms, 526
 Counsel, 254, 261
 Courage of commissioner, 243
 Court, duties of policemen in, 146
 Courts-martial, 265
 Cramming for examination, 86
 Criminals, police control of, 138; relation of police to, 151; identification of, 342; photographs of, 351; right of privacy of, 354; anthropometrical measurements of, 355; marks and scars of, 363
 Dangers, of compulsory retirement, 168; of details, 186
 Debts, failure to pay, 249
 Defects of examinations, 426
 Definition, 1
 Demoralization of English police system, 18
 Demoralizing duties, 190
 Deputies, 68
 Details, 185; for police purposes, 188; for public purposes, 193; for private purposes, 198
 Detectives, 169, 176; details, 190; private, 238
 Difficulties of trial officer, 260
 Dillon, Inspector James E., 490
 Disciplinary authorities, 266
 Discipline, in England, 73; in United States, 242; ideal system 289
 Discretion, of appointing officer, 99, 450; its abuse, 101, 451; of tenement house inspectors, 213; of removing officer, its control by courts, 284
 Doormen, 158
 Due process of law, 223
 Dumb-bell test for police candidates, 484
 Dutch policeman, photograph of, 300
 Duties, of roundsmen, 49; of sergeants, 55; of lieutenants, 58; of captains, 60; of patrolmen, 112; of mounted police, 155; of matrons, 162; of London detectives, 183; of probation officers, 203; of public health police, 207; of trial officer, 259
 Dynamometer tests for police candidates, 483
 Education of policemen, 152, 469
 Efficiency, of police patrol, 117, 453; of private policemen, 237; of private detectives, 241
 Efficiency records of patrolmen, 433
 Eligible list of patrolmen, 98
 English, police system, 13, 18, 70; head of department, 47; promotions, 71; public health law, 219
 Entertainments for pension fund, 299
 Equipment, 154, 309
 Evidence in excise cases, 191
 Examination questions for patrolmen, 498; for sergeants, 527; for matrons, 543
 Examinations, *cf.* Civil-service examinations

- Excellence of German professional head of department, 45
 Excise and gambling, 191
 Experience of trial officer, 258
 Extra-legal license of prostitution, 400

 Fact, questions of, on *certiorari*, 282
 Failure, to make arrests, 131; to pay debts, 249
 Family history of patrolmen, 92
 Fees charged applicants, 476
 Feet, examination of, 478
 Feminine vice, 378
 Fines, 297
 Finger prints, 342; classification of, 346; advantages of, 366
 Fire, protection against, 205
 Five-platoon system, 125
 Foreign countries, police of, 28; photographs of police officers of, 150, 300
 Formalities connected with trials, 253
 Franking abuse in postal service, 194
 French, police system, 23; head of department, 47; public health law, 214; limitations, 215; supplementary legislation, 216

 Gambling, 408; police control of, in America, 401
Gendarmerie, 10; uniforms, 311
 German, police system, 27; head of department, 42; constructive arrest, 137; arrest for identification, 140; status of police officer, 147; public health law, 217; administrative control, 218
 Government questions for patrolmen, 495, 499

 Harbor police, 156
 Hardships of medical examination for promotion, 508
 Head of department, 30
 Health of policemen, 291
 Heart, examination of, 480
 Height of policemen, 471, 479
 History, 16; of police patrol, 115
 Hoodlums, 234

 Hours of service, 122, 458

 Identification of criminals, 342
 Improvement of police patrol, 455
 Ineffectiveness of regulation of prostitution, 392
 Inspectors, 68, 206; in England, 73; of tenement houses, 213
 Instruction, of patrolmen, 106, 435; on street, 108; of police candidates, 518
 Intellectual inferiority, 150
 Intoxicating liquor, use of, by policemen, 470

 Judicial acts reviewable on *certiorari*, 277
 Judicial review of removals, 257, 275
 Judiciary, relation to, 8
 Justice of commissioner, 243
 Justices, 3

 Knowledge, duty of, 112

 Labor disputes, 199, 235
Laissez-faire doctrine, 390
 Law, questions of, on *certiorari*, 279
 Laws and ordinances, questions on, 532
 Leakage of questions, 88, 447, 524
 Leisure, control of, 369
 Lengthening of term of non-professional head, 441
 Lieutenants, 57
 Liquor tax, 296; traffic, 408, 412; police control in America, 401
 Localities, questions for patrolmen, 497, 501
 London, police, 20; detectives, 181

 Maintenance of discipline, 242
 Mallam, Sergeant Benjamin, 490
 Marks of criminals, 363
 Masculine vice, 377
 Matrons, 159; examination of, 535
 Mayor's power of removal, 265
 McAdoo, William, 98
 Measurements of criminals, 94, 355

- Medical examination, of patrolmen, 96, 166, 477; of sergeants, 505; need of, 507; of police matrons, 538, examination blank, 541
 Medieval regulation of prostitution, 385
 Memory test for police candidates, 495, 498
 Merits of systems of criminal identification, 366
 Method of operation, of detectives, 172; of London detectives, 184
 Military character of German police, 27
 Military, relation to, 7
 Miscellaneous, equipment, 324; records, 332
 Modern regulation of prostitution, 386
 Monitors at examinations, 497, 514; selection of, 516
 Moral effects of prostitution, 382
 Morals police, 407
 Morning return, 329
 Morrow, Dr. Prince A., 379
 Mounted police, 155
 Mouth, examination of, 478
 Murray system for concealing candidate's identity, 520

 Narrative records, 332
 Nature of public office, 245
 Neglect of duty, 247
 New York, constitutionality of state police in, 422; police officers, photographs of, 490; examinations in, 465
 Non-enforcement of statutes, 110
 Non-professional head of department, 30; selection of, 436; need of expert knowledge, 440; lengthening of term, 441
 Norwegian policeman, photograph of, 150

 Objections to signal system, 461
 Occupation, of police applicants, 471; of vouchers, 475
 Officers of department, 30; selection of, 425

 Official duties, of policemen, 112; of surgeons, 164
 Opposition to regulation of prostitution, 390
 Organization of detective forces, 173

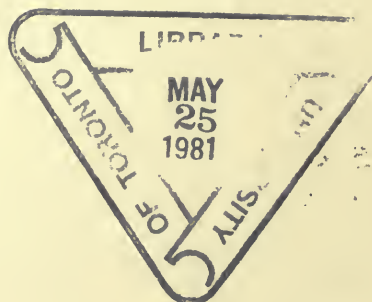
 Paris police, 24
 Partisan police board, 34
 Pass examinations, 432
 Patrol, 114; regulations, 116; systems of, 120; percentage of force on, 196, 458; service in American cities, 458
 Patrolmen, qualifications, 80; selection, 82, 444; examination, 85, 465, physical examination, 90, 482; appointment, 97; instruction, 106; physical training, 108; hours of service, 122; powers, 127; official duties, 112; personal duties, 142; private life, 145; intellectual inferiority, 150; education, 152; note-books, 338
 Penalties, rating of, 427
 Pennsylvania State police, 424
 Pensions, 293, 428
 Percentage of police forces on patrol, 196
 Periodical physical examinations, 167, 170, 305
 Personal aides, 189
 Personal duties of policemen, 142
 Personal history, of patrolmen, 93, 481; of police matrons, 536
 Personation of candidates, 448
 Photographs of criminals, 351
 Photographs, of foreign police officers, 150, 300; of New York police officers, 490; of Major Richard Sylvester, *frontispiece*
 Physical disability, 291
 Physical effects of prostitution, 379
 Physical examination, for patrolmen, 91, 166, 482; marking scale, 488; for matrons, 162, 537
 Physical training of patrolmen, 95, 108
 Pickpockets, 234
 Police function, 1

- Police power, 2
 Police record of applicants for appointment, 470
 Political influence, 187
 Powers, of policemen, in making arrests, 127; of special policemen, 228; of railway policemen, 233; of mayor in making removals, 265
 Preliminary sheet in examinations, 494
 Preparation, for examination, 85, 481, 487; for promotion, 434
 Preventive function, 4
 Privacy, right of, 354
 Private details, 198
 Private life of policemen, 145
 Private, policemen, 226, 236; detectives, 238
 Probation officers, 200
 Probation of patrolmen, 106
 Problems of administration, 416; discussion of, 435
 Professional counsel, 254, 261
 Professional gambling, 410
 Professional head of department, 38; in America, 39; in Germany, 42; titles of, in American cities, 442
 Promotions, 51; in England, 71; in American cities, 428
 Prostitution, 369; physical effects, 379; moral effects, 382; regulation, 383; *laissez-faire* doctrine, 390; extra-legal license, 400; police control in America, 401; true remedy for, 405
 Protection, of private rights, 184; against fire, 205; of public health, 206
 Province of writ of *certiorari*, 278
 Public health and safety, 203; in France, 214; in Germany, 217; in England, 219; in America, 222
 Public office, nature of, 245
 Punishments, 267
 Punitive function, 6
 Purchase, of appointment, 102; of uniforms, 311
 Qualifications, of German professional head of department, 43; of roundsmen, 51; of sergeants, 56; of patrolmen, 80; of mounted police, 156; of detectives, 173; of probation officers, 202
 Quasi-official duties of policemen, 143
 Questions, for police candidates, 498; for police sergeants, 527; for police matrons, 543; their preparation, 523; their distribution, 524
 Railway policemen, 232
 Rating, of penalties, 427, 512; of rewards, 430, 511; of physical examination for patrolmen, 488; of records of sergeants, 510
 Records, 325; narrative, 332; tabular, 333; central office, 335
 Reduction of officers, 428
 Reform of English police system, 20
 Regulation, of private detectives, 239; of prostitution, 383, 398; in Middle Ages, 385; in modern times, 386; in Europe, 387; *laissez-faire* doctrine, 390; opposition, 390; ineffectiveness, 392; extra-legal license, 400
 Relation of police to criminals, 151
 Remedy, for unsatisfactory character of detectives, 181; for abuse of details, 195; for prostitution, 405; for gambling problem, 411; for liquor problem, 414
 Removal, power of, 246; judicial review, 257; power of mayor, 265; for cause, 286; exercise of power in United States, 306; causes of, 428, 438; of police chiefs, 438
 Reports, 336; cards, 328; captain's reports, 338; in examinations, 535
 Repression of gambling, 410
 Residence of patrolmen, 468
 Responsibility, chain of, 340

- Retirement, compulsory, 300
- Revolver, 317
- Rewards, rating of, 430
- Right of privacy of criminals, 354
- Roundsmen, 48; qualifications, 51
- Rules and regulations, questions on, 527
- Rural, police, 14; patrol, 116
- Russian policeman, photograph of, 150
- Salary, of police officers, 62; of police chiefs, 442
- Sanitary control of prostitution, 388; in America, 399
- Scars of criminals, 363
- Secretary to police commissioner, 101
- Secret manifestations of vice, 406
- Secret service, 11
- Segregation of vice, 397
- Selection, of roundsmen, 51; of sergeants, 57, 505; of captains, 64; of patrolmen, 75, 82, 444; of matrons, 160, 535; of detectives, 178; of officers, 425; of non-professional head, 436; of examination monitors, 516
- Seniority, rating of, 510
- Sergeants, 54; examination for, 505
- Service pensions, 294
- Severe penalties, 269
- "Shoo-flies," 456
- Sick policemen, 165
- Signal service, 119, 323, 460
- Social evil, *cf.* Prostitution
- Sources of pension money, 296
- Spanish policeman, photograph of, 300
- Special duties, officers with, 154; uniforms of such officers, 313
- Specialized national police bureaus, 11
- Special morals police, 407
- Special policemen, 226
- State constabulary, 416, 418; constitutionality, 421
- State police forces, 175
- Status of policemen, 148; in Germany, 147
- Statutory regulation of prostitution, 398
- Strength of force in American cities, 122, 458
- Strength tests for patrolmen, 95; in New York, 482
- Subjects of patrolman's examination, 494
- Subordinate officers, 48, 62; selection of, 425
- Summoning of assistance, 322, 463
- Sunday closing of saloons, 414
- Supervision of city police, 419
- Surgeons, 163
- Suspicious persons, 138; in Germany, 140
- Swedish policeman, photograph of, 300
- Sylvester, Major Richard, *frontispiece*
- Tabular records, 333
- Temporary details, 199
- Tenement-house, conditions, 211; department, 212
- Tenure, of detectives, 179; of police chiefs, 442
- Three-platoon system, 121
- Transfers, 114
- Trial officer, 257
- Trials, 242, 252; in postal service, 255
- Tricks of trade, 109
- Turkish policeman, photograph of, 150
- Two-platoon system, 121
- Uniform, 309; of special policemen, 313
- Unpopularity of London police, 22
- Unsatisfactory character, of detectives, 180; of American police, 369, 416; of police patrol, 453
- Use of baton, 316
- Utility of uniform, 310
- Venereal diseases, 380; in police applicants, 477
- Vice and crime, 373
- Vision, examination of, 480; in promotion examinations, 506

- | | |
|---------------------------------------|--|
| Vouchers on application blank,
473 | Weapons, 314 |
| Ward, Lieutenant William H., 490 | Weight of policemen, 471, 479 |
| Warrant, arrest with a, 127; | Whistle, 320 |
| arrest without a, 128 | Written examination, for patrol-
man, 491; for sergeant, 513;
for police matron, 542 |





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